

THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT

PROCEEDINGS AND DEBATES OF THE SECOND SESSION (1959—60)
OF THE FIRST LEGISLATURE OF THE WEST INDIES,
CONSTITUTED UNDER THE WEST INDIES
(FEDERATION) ORDER IN COUNCIL, 1957.

17th Sitting

Tuesday, 17th May, 1960

HOUSE OF
REPRESENTATIVES

The House met at 2.30 p.m.

Prayers

[MR. SPEAKER *in the Chair*]

CANADIAN BRANCH OF C.P.A.

Mr. Speaker : I have the honour to inform the House that I have received a letter from the Honorary Secretary of the Canadian Branch of the Commonwealth Parliamentary Association, which I shall ask the Clerk to read.

Letter read as follows :

"Dear Mr. Speaker,

The Members of the Canadian Delegation who had the honour and privilege of attending the first Atlantic Regional Conference which took place in Trinidad on the initiative of the West Indies Branch of the Commonwealth Parliamentary Association, have requested me to convey to you, and through you, to the Members of the House of Representatives, their appreciation and sincere thanks for the kind and hospitable manner in which they were treated during their stay in Trinidad. Nothing was left undone to make their visit an interesting one and to give them every opportunity of

learning at first hand the problems and aspirations of the people of the West Indies. I am sure it will be found that this visit will make it possible for members of the Delegation to present their views to those in authority in Canada with a greater knowledge of your needs and requirements.

Please accept my personal thanks and appreciation for your assistance at all times, and with kindest personal regards.

Yours sincerely,
(Sgd.) T. R. MONTGOMERY
Hon. Secretary
Canadian Branch, C.P.A."

EMERGENCY POWERS BILL

Order read for resumption of consideration of Bill in Committee — [Progress reported 10th December, 1959]

House resolved into Committee.

The Prime Minister : As far as I remember we had practically finished this Bill and there remained only the final clause to consider.

Mr. Chairman : Actually what was before the House was an Amendment moved by Dr. Duhaney that Clause (5) be deleted, and Mr. Sinanan was speaking at the time.

The Prime Minister : Before the hon. Member speaks, I would just like to say

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that this statutory clause is to be found in similar legislation which was drafted elsewhere over 300 years ago.

Mr. Sinanan (Victoria, Trinidad): Mr. Chairman, before I proceed I would like to ask my hon. and learned Friend, the Prime Minister, whether he could assist me on a point that has been giving me a considerable amount of difficulty in so far as the interpretation is concerned. If he would look at Clause 2. (1) —

“If the Governor-General is satisfied that a public emergency has arisen....”

The Prime Minister: On a Point of Order. Is the hon. Member in order to debate a Clause that has already been agreed to?

Mr. Sinanan: If it becomes necessary I will ask for that indulgence.

“If the Governor-General is satisfied that a public emergency has arisen....”

Therefore the person to be satisfied is the Governor-General. Now, if you look at Clause 3 (4).

“The regulations so made may provide for empowering such authorities or persons as may be specified in the regulations to make orders and rules for any of the purposes for which such regulations are authorised by this Act to be made and may contain such incidental and supplementary provisions as appear to the Governor-General to be necessary or expedient for the purposes of the regulations.”

And then sub-clause (6) provides for the necessary documents purporting to be made either by “the Governor-General or other authority or person” who has had delegated power, to be received in evidence.

The point I wish to address to my hon. Friend, Sir, is whether the only person to be satisfied is the Governor-General or

whether that is also a function and a power to be performed by the delegated authority under sub-clause (4). It seems to me that if you are going to delegate the power you have, you also delegate the authority and that is what is being done in this piece of legislation. In other words, it is not the Governor-General to be satisfied but that any such authority which is delegated to any other person or any other authority has also to be satisfied.

The Prime Minister: If you tell your driver that you are satisfied and you delegate certain functions to him, has he got to be satisfied also?

Mr. Sinanan: I am going to refer my hon. and learned Friend to a case which went recently before the Privy Council from the Federation of Rhodesia and Nyasaland on this same point and this same language. The point which my hon. and learned Friend just made is the point that was made by the legal gentleman who appeared on behalf of the plaintiff in the action. I am going to read it to the Prime Minister. It is in the *All England Law Report*. It is the case of *Mungoni against the Attorney-General for Northern Rhodesia*. If my hon. Friend, the Prime Minister, is unable to follow the argument, for many reasons, well then I am going to address my remarks directly to the hon. Gentleman from Tobago, and I am sure that at least he will follow the argument. This case, Mr. Chairman, went from Northern Rhodesia to the Privy Council.

The Chairman: Just a minute. I thought you were asking the Prime Minister for clarification, but you didn't give him a chance to say what was said. It looks to me as if you are debating or wanting to

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debate the provisions in Sections 2 and 3 again, for which purpose of course you are allowed to ask that they be re-committed at the proper time.

Mr. Sinanan : As you observed, Mr. Chairman, I paused and the Prime Minister asked a question that sought to present this point of view — that if you tell your driver that you are satisfied and you delegate certain functions to him, has he got to be satisfied also? If I may say so, he touched on the whole crux of the question there. I am merely reading the authority, so that when he tried to clarify

The Chairman : I would suggest that you lend him the authority so that we can get on with the debate.

Mr. Sinanan : If I thought he would make good use of it, Sir, I would pass it to him. It is a most important case —

The Chairman : At the proper time you can ask for a Section to be re-committed.

Mr. Sinanan : The Prime Minister is not going to allow it from what he just said. However, I hand him the book. It is a long time since he got an All England Law Report free.

I was speaking on Clause 5, and, Mr. Chairman, some of the points raised in that case are extremely appropriate to this whole Bill. They are all relevant in a consideration of Clause 5. On the last occasion, if my memory serves me correctly, the Prime Minister did not feel very enamoured of the arguments that we were advancing on the interpretation of the word "brought". Our contention was, and still is, that the only correct construction of this Clause — and I will read the Clause first so that,

perhaps, hon. Members opposite, refreshed as they are, will appreciate the point more readily :

"5. No proceedings shall be brought against any person for anything done in good faith in the exercise of any powers conferred by any regulation made under this Act or by any order or rule made in pursuance of any such regulation."

Our point is, Mr. Chairman, that if you do not provide for proceedings to be brought, it means no action can be filed at all.

The Prime Minister : No ! That is San Fernando law.

Mr. Sinanan : I suggest to the Prime Minister that if he reads that case as it ought to be read he will see there where proceedings were brought by Mr. Mungoni and he was allowed damages in the sum of a few pounds and the Federal Supreme Court disagreed and refused the damages. The matter was taken to the Privy Council and they held on a particular point that his contention was not correct and did not allow the appeal on the ground that the person who was delegated had also to be satisfied.

If there is one thing we are not going to allow, and will only allow with the stiffest resistance, is any form of hybrid legislation which marks and emphasises the state of affairs in places like Rhodesia and Nyasaland. We wish to ask the Government, in view of the statement prepared by the Prime Minister and read to this House yesterday, and seeing that the Governor-General will no longer be presiding over the Cabinet, whether they are going to vest these powers in the Governor-General or in a Minister who is an elected Member of this House. This piece of legislation is in-

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consistent with the aspirations of this nation and of this House.

The proper language to be used should be “no proceedings shall be allowed”. You cannot draft legislation to prevent a man who considers himself aggrieved from bringing proceedings to voice his grievance. The proceedings should be brought and then let the court decide on those proceedings about good faith or bad faith. I promised my good Friend, the Prime Minister, that I would have sought wiser and better counsel than he has given so far. One of Her Majesty’s Counsels has said categorically that the correct language should be “no proceedings shall be allowed”. I can tell my Friend privately the name of that Q.C.

The Prime Minister : He is always infallible !

Mr. Sinanan : He is hardly fallible on the question of pure law and, in my case, if I have to err I prefer to err with him.

If the Governor -General acts in bad faith — and West Indian Governors have been known to act in bad faith — or he delegates that power and the person to whom he delegates that power — Governor or Administrator — acts in bad faith, nobody in the West Indies can bring proceedings against him if he so desires. Let us assume that the Prime Minister is right and we accept that the word “brought”, can be used. What is the harm in allowing the word “allowed”? What is this dogmatic insistence about? If you had the word “brought”, it means that the person aggrieved, according to the Prime Minister, can bring proceedings. Then what difficulty will be encountered? What trouble

will come to the Government to have the word “allowed” instead of the word “brought”; what mis-carriage of justice will be done? In order that justice will be done would they suffer a reduction in salary?

Mr. Rose : Warped and jaundiced minds.

Mr. Sinanan : I agree entirely with the hon. Minister of Communications and Works — warped and jaundiced minds refuse to substitute the word “allowed” in place of the word “brought”. The only trouble is that I am different in that I am not saddled as he is with the irresponsibility of those warped and jaundiced minds.

We look forward to the success of this Federation with the same convictions of many hon. Members opposite, only that some of us feel that in our journey to nationhood we should make sure and profit from the mistakes of others before us. We should not only imitate them where they have gone right but we should refuse to follow them in any piece of legislation where they have gone wrong.

I submit to this Government that they should accept this :

“No proceedings shall be allowed against any person for anything done in good faith in the exercise of any powers conferred by any regulation made under this Act or by any order or rule made in pursuance of any such regulation.”

We are practical men of the world, Mr. Chairman; we have read what has happened to certain people in other countries. We know what has been the fate of men like Jomo Kenyatta and others who fought for the independence of their countries — how they were humiliated, shamed and disgraced

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in their fight for independence and we know that afterwards they have been flown over, when independence has been achieved, to become Members of Her Majesty's Privy Council.

What prevents an Administrator, what prevents the Governor-General, what prevents a Governor from acting in bad faith because of an illegal atmosphere or of an illegal situation? Governors have been known to act in bad faith before.

Mr. Hill : Except in Barbados.

Mr. Sinanan : What Barbados does is this : when a Governor acts in bad faith, it joins issues with that Governor and makes him acting Governor-General of The West Indies. They white-wash him and set him up before the eyes of the West Indian public so that those who criticised him can see that you are pleased with him and put him in the supreme position.

The Prime Minister : He was the senior Governor.

Mr. Sinanan : He was no senior Governor ; in fact, he was no Governor at all. He had already retired ; he was on pre-retirement leave. It would have been better if some West Indian was appointed to act as Governor-General.

The Chairman : Address the Chair.

Mr. Sinanan : I am addressing the Prime Minister and replying to his arguments.

Governors have been known to have acted in bad faith in the West Indies before, and this is going to be a further piece of legislation encouraging them to do so. What are we hoping for in this West Indies Federation? Members opposite do not

realise, with all this talk about financial bankruptcy, that we stand head and shoulder above some other Commonwealth countries when it comes to statesmanship and better citizens. We do not want any Kenyatta. We do not want anybody to be exported because he burns a document. There is a provision here for exporting people.

The Prime Minister : Who says exporting?

Mr. Sinanan : My learned Friend, the Prime Minister prefers the word deport, I will say export. The provision to deport and export is there and it is tied up with the words hurricane and volcanoes. However much I disagree with the methods of some people, I feel that no man in public life in the West Indies, whether territorially or at the Federal level should ever be made a victim of worthless legislation like this. This is worthless legislation and borders on being malicious.

The Prime Minister has an opportunity of reading that case. Let him deny that the Privy Council has not decided that the person delegated with the authority — and I am appealing to the Member for Tobago, who is a lawyer, whether or not he is junior to a Q.C. or he is junior to me

Mr. Joseph : The Prime Minister is a lawyer too.

Mr. Sinanan : I am going to appeal to the hon. Gentleman from Tobago to take that case and read it. It is an alarming decision and if that is the decision in a case like that, certainly we must be careful in this Bill. We are sitting here as a Parliament and delegating the power of the elected representatives of the people to the Governor-General and giving him the power to

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delegate that authority to someone else, and not only to be satisfied with the delegation of that authority but also to be able to imprison citizens and deprive them of their liberty.

Let us take Mungoni again. They had deprived him of his liberty and after an action was brought he received a few miserable pounds as damages. But finally even the Privy Council held against him — that is protection of a man's liberty. Is that what we want for this new nation — the pattern set by Rhodesia and Nyasaland and the revolting attitude of South Africa? If there is one thing we have to learn and copy from the English nation it is their respect and abiding love for the liberty of the subject. Parliament has been known on more than one occasion to drop everything else of national importance and deal with what appears to be the deprivation of the liberty of an ordinary newspaper boy. Judges have been known to weigh and sift evidence for hours in order to show that the liberty of the citizen is sacred.

3.00 p.m.

If the alternative of the Prime Minister is to read and understand that book and not listen to me and I think he can construe the written word better, I will accept. I am satisfied that the more the Prime Minister listens the more stubborn he gets. It would be better if he did not listen sometimes. We are going to resist this; we are going to fight, we are going to argue.

I was making the point, Sir, that we have got to lay down those principles formally here in our growth as a people. We are practising the Parliamentary way of life; we must learn from the older

nations. Hon. Members cannot deny that the Rule of Law, the liberty of the subject, is most sacred. We cannot come here and sit down and allow easy passage of a Clause like this, a Clause which allows the Governor-General, without consulting this Parliament, without even summoning this Parliament, to pass regulations to lock up people, to jail people — and I am going to use the most basic English for you to understand — to haul people, grab them and throw them into camps. That is what we are doing here. We are not content with that; we are providing now for him to make regulations to delegate to other people and to other institutions, and we are saying that no proceedings can be brought.

Let us say that every Member of this House felt satisfied in his conscience that the Governor of some West Indian island, acting under such delegated authority, behaved in a manner that was vicious and malicious. None of us could help that aggrieved person. He could not even take the matter to Court, because no proceedings can be brought. That is the simple English construction of this. And please understand that not because I am against the Premier of Trinidad politically, I must sit here and allow somebody with delegated authority to apprehend the Premier and deprive him of his liberty because he burnt up a few documents and led a demonstration! And suppose he takes this last document presented here, which should be burnt right away — that White Paper of yesterday which should be confined to the flames; suppose he goes to Woodford Square and burns the Prime Minister's White Paper tomorrow, under this delegated legislation the people of Trinidad

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will be without a Premier. That is not my philosophy Sir; that is not my desire. I wish to make him Leader of the Opposition after the next election, not to see him imprisoned. That is democratic practice. We are going to make him Leader of the Opposition after the next election.—
[*Interruptions*]

The Chairman : Order, order.

Mr. Sinanan : I was saying that we will not allow these Regulations to be used even against the Premier of Trinidad on any occasion. If the Prime Minister wants to settle his quarrels, he must settle them as he did on the radio, not by subterfuge.

What is the purpose of these Regulations? Where is the emergency? Where is the hurricane? This Bill has been pending before this House for the last eight or nine months. Where is the flood? I haven't seen any outbreak of pestilence. Nine months have come and gone, nine very anxious months for my Friend. Where is there justification for an emergency? Why wasn't legislation brought saying that if such and such an emergency arose then these would come into effect on a certain date? Why bring them now? Why rush them through?

Mr. Chairman, let us look at sub-Clause (5) of Clause 3. I am going to read to hon. Members sub-Clause 6 first :

"Every document purporting to be an instrument made or issued by the Governor-General or other authority or person in pursuance of this Act, or of any regulation made under this Act, and to be signed by or on behalf of the Governor-General or such authority or person, shall be received in evidence, and shall, until the contrary is proved, be deemed to be an instrument made

or issued by the Governor-General or that authority or person."

Look how far we are going now, Members of Parliament who have been elected honestly, and otherwise, to this House. We went to the country for a mandate to exercise these functions. We have not only given these functions to the Governor-General but we have given him the power to delegate his authority now, by providing that anything which can be signed by the Governor-General can be signed by that authority and deemed to be an instrument made or issued by the Governor-General on that authority or by that person.

What are our powers here after this passes into law? What justification would there be to draw the existing salary, not to mention anything else? What are our powers here after we have told the Governor-General to go ahead, lock up any West Indian you want to lock up, jail any West Indian you want to jail, deprive any West Indian of his liberty, and vest that authority in anyone else, in any acting Governor or Administrator, and if you want to take that to a Court of Law, that cannot be done?

They make provision here in this Clause that no proceedings shall be brought. Everything that the Federation was created for, every function of the Federal Government and of the Federal Parliament is being vested in the Governor-General; so what need is there for us to meet here? Let my Friend the Prime Minister challenge the authority and say that he disagrees with the Privy Council. I will sit down and hear his brilliant argument. The Prime Minister has made

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sufficient mistakes on the construction of Law and on the interpretation of political feeling. I hope that he does not continue to make those mistakes here.

The Prime Minister is saying that he has not consulted the Law Officers about this term. We would like to know why the Prime Minister has not consulted the Law Officers, yet he gets up and admits that they don't punctuate well, that they are not capable of placing commas where they should be placed; and he is asking the Opposition to punctuate their drafting, asking the Opposition to correct their drafting to put in full-stops as the Legal Draftsmen did not know how to punctuate. Some people have different ways of punctuating. I agree with that.

The hon. Minister of Communications and Works belongs to a Party that is fighting this thing. On the one hand he marches and behaves in the manner of a hooligan and on the other he comes here and sits like a responsible citizen.

Hon. Member : Withdraw the remark.

Mr. Sinanan : I withdraw the word "hooligan" and I will substitute for it "behaves in a most ungentlemanly manner". I believe the hon. Member knows what I am saying. He has just marched, then he assumes a form of responsibility and sits down in here and talks about filibustering. That hon. Gentleman and a few of his colleagues might live to regret this piece of legislation more than any other Member in this House. I believe they have been warned on many occasions before.

I would not like to deport the hon. Gentleman but I would like to export him for a little while.

Mr. Joseph : He has been exported already.

Mr. Sinanan : Mr. Chairman, I have just asked whether the Amendment is still before the House. I have been informed that it is. The Marginal Note of the Clause is most misleading. It speaks of—

"Exercise of powers in good faith not actionable."

— that is the Marginal Note of this particular Clause. Then it goes on to say that—

"No proceedings shall be brought against any person for anything done in good faith in the exercise of any powers conferred by any regulation made under this Act or by any order or rule made in pursuance of any such regulation."

I submit with respect, Mr. Chairman, that that Marginal Note is misleading. What this Clause does is to prevent any action at all. I would like to hear the Prime Minister say why he is insisting on this word "brought". Even today he says, "No, don't substitute any other word for 'brought'". Why does he refuse to allow us to insert the word "allowed"?

This is the sort of thing that provokes people to speak of the role of the Federal Government. Here we have the words, "No action shall be brought". What is meant by that, Mr. Chairman? That means that you should not go with your writ and your two pounds to file an action at all. Don't even attempt to go and buy the stamp to put on the writ. My hon. Friend and colleague who is a Solicitor shakes his head and says "No". I know why is he doing that. It is because he

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cannot believe, and refuses to believe that it is the intention that anybody would try to do such a thing. The only difference is that he does not share the opinion of the most competent legal mind in the interpretation of this Clause. That is what it means—No action can be brought. Don't worry to even go and file that writ itself, or even get a Solicitor to sign it for you, because the Registrar is not going to allow it.

What you want to do is to allow a man to file a writ and let the Court decide whether it is based on action that has been done in good faith or bad faith, and leave it to the Court to say it will not allow it because the action was done in good faith. That is justice and uniformity of legislation. "No action shall be brought" means that you cannot institute proceedings at all and that is what is wanted. "No proceedings shall be instituted", because it is the Governor-General and some authority delegated by him who have done this and therefore they cannot be subjected to the normal Laws of the Court.

No man is above the law. I am not concerned with the present incumbent of the office, I am not concerned with any individual; I am discussing now the office of the Governor-General. No Governor-General ought to be given this power, even if he is a local man. Now that we are going to Cabinet responsibility, it is even worse.

The power I am discussing, Mr. Chairman, is the power to do something or to delegate that authority to do something, and be immune from legal proceedings. I am discussing the exercise of the power and

the immunities that flow from Clause 5. What this Clause means is complete immunity.

No need for hon. Members opposite looking disturbed. They must do something about it. We are in the Committee stage of this Bill and hon. Members on both sides of the House are entitled to get up and present contrary points of view to those presented by the Members of the front bench. That is what makes Parliament robust. Because many Governments would have taken wrong steps if it were not for the little recalcitrant behaviour of their back-benchers. Don't go and expel people from their constituencies; don't go and move Ministers from their Ministries lock, stock and barrel. Hon. Members should not go marching all over the place and saying, "to hell with this and to hell with that" and even resorting to consigning documents to the flames, and refusing to burn this one—this Emergency Powers Bill.

What hon. Members on the back-benches of the Government side ought to do is to have a little consultation with their own consciences. Ask themselves why is there this insistence on the word "brought"?

Is it that the vocabularies of the draughtsman and the Prime Minister are so limited, so narrow that no other word could have been used but the word "brought"; no other language could have been used?

Let hon. Members on the back-benches opposite not only consult their own consciences, but consult their leaders, and ask them why.

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As I said yesterday, and I have said before, when this legislation is passed it will reproach every Member of this House. It is no use some of us telling people outside — “Well, we were in the Opposition and we fought tooth and nail against it; we resisted this legislation while Government passed it. To the people in the outside world, to the people in the other parts of the Commonwealth, it is the Parliament of this Federation that passed this legislation. If this legislation is going to be referred to, either in the Courts of Law or in another Parliament, nobody is going to say that this piece of legislation was opposed, and that the Opposition fought against it but that the Government, with its typical lack of foresight, passed it. They will say that this legislation was passed in the year 1960 by the Federal Parliament of The West Indies. They would not even ask who was the person responsible for piloting such a reprehensible piece of legislation. They would not want to know from what source this legislation originated. It may be that sometime in the future, either in the Federal Supreme Court or in the Privy Council some people will sit down and say that in the year 1960 such worthless legislation ought never to have even received its First Reading. And they are going to blame everyone of us.

I submit, Mr. Chairman, with the greatest respect, that it is the duty and responsibility of the Prime Minister to explain to this House why he is insisting on the word “brought” and not the word “allow”, or any other set of words that will allow anybody to bring proceedings against any person in order to decide whether that person acted in good faith or in bad faith.

Mr. Chairman, let us deal now with sub-Clause (5) of Clause 3, because they are all related. Sub-Clause (5) says:

“The regulations so made or any order or rule made in pursuance of such regulations shall have effect notwithstanding anything inconsistent therewith contained in any enactment, and any provision of any enactment which may be inconsistent with any regulation or any such order or rule shall, whether that provision shall or shall not have been amended, modified or suspended in its operation under this section, to the extent of such inconsistency have no effect so long as such regulation, order or rule shall remain in force.”

I would really like to know, Mr. Chairman, where this Emergency Powers Bill was drafted. This could not have been drafted in this country.

The Chairman: You cannot deal with that sub-Clause now, as it has already been passed.

Mr. Sinanan: I am saying, Sir, that it is related to Clause 5.

The Chairman: You cannot go back to it.

Mr. Sinanan: I am saying, Sir, that this sub-Clause (5) of Clause 3 is related to Clause 5 — “No proceedings shall be brought”, and I am going to show that, Sir. I can show the relationship. It will take me a little time, but I can do it.

The Chairman: Sub-Clause (5) deals with substantive law; while Clause 5 deals with proceedings.

Mr. Sinanan: I agree, Mr. Chairman. Seeing that you have interpreted this Clause so clearly, Sir, I would ask you if you can interpret Clause 5 as clearly. I call upon your forensic skill, Mr. Chair-

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man, to tell this Committee what is meant in Clause 5.

The Chairman : It is no part of my business.

Mr. Sinanan : I submit with respect, Sir, that it is part of your business. I ask hon. Members opposite again to consider the case of a man who has had his liberty taken away from him by any person who has had this authority delegated to him. Will any hon. Member opposite say whether he would agree that that person is entitled to file an action in the Supreme Court.

The Prime Minister : Of course, he can file an action.

Mr. Sinanan : Under this Clause? In view of that answer, I am going to ask back for my Law Report.

The Prime Minister : Here it is, read it!

Mr. Sinanan : The Prime Minister, obviously, has not read it, for my marker is obviously in the same place and he has been looking at another place. My learned Friend has read a wrong case. He has been dealing with divorce.

One of my Colleagues has proposed an Amendment to this Clause and it is being typed at the moment. I am going to ask—

The Prime Minister : We are not receiving any Amendments.

Mr. Sinanan : You mean no amendment can be brought? No proceedings can be brought, and no amendment can be brought? Is that the attitude? When you are passing legislation, don't have any amendments brought, and when you have

the legislation passed into Law, don't have any proceedings brought.

The Prime Minister : We are not accepting it at all.

Mr. Sinanan : My learned Friend, the Prime Minister, has not seen the amendment, yet he says, "We are not accepting it; we are going to vote against it". Is that the way hon. Members opposite function?

Sometimes I regret very much that I have to deal with my learned Friend, the Prime Minister. If it were somebody else sitting in that position, I would have some very unkind things to say. He is not even allowing the amendment to be typed yet he says it is going to be voted against.

I would like to know where this piece of legislation was drafted; certainly not in The West Indies at all. And I will lose a lot on that. It could not have been drafted in The West Indies, nor could it have been drafted by a West Indian.

3.30 p.m.

The Minister of Communications and Works will tell you about amendments in Another Place. At least they allow amendments there; they consider amendments. I have had some of my amendments accepted, but I have never yet met this hostile rebuff that when it is being typed, and nobody knows what the contents of the Amendment are, the announcement is made that it is going to be voted against.

I would like the Prime Minister to tell me whether his legal advisers have advised that the word "brought" is proper and ought not to be amended. I would like to know if the Legal Department emphasises

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that this is correct and that there is no substance in our argument. But I am not going to rely on the legal interpretation of the hon. the Prime Minister when he sits in this House. Obviously, it cannot be done. However brilliant a Member of this House might be in the interpretation of law—I would not for one moment accuse my hon. Friend of that—but however brilliant that hon. Member might be, in Parliament we have to go on the advice of the Legal Department.

You know, Mr. Chairman, that shows clearly that in this transitional period, with such a restricted Constitution, it would have been better to have the provision where the Attorney General functioned as a Member of this House. It would have been better, until we had a complete change and a new Constitution introduced; because the position is worse, as you have a Legal Department that functions from outside and we don't know to whom we can address these questions and constructions of law; because we get such irrelevant replies, such erroneous interpretations that perhaps it might have been better in the first stages to have had what was provided for until the conference of 1956 and to have had an Attorney General here who would have been able at least to appreciate the sound arguments that flow from this side of the House all the time.—[*Laughter*]—We have exhausted all the arguments that we can present on this.

That same inane laughter of the Minister of Communications and Works has been commented on before. That same inane laughter in order to cover up his own embarrassment will land him into trouble one day. I cannot understand the

attitude of the Minister of Communications and Works. He sits there and laughs all the time, but he does not know what he is laughing at and does not even realise that he is laughing. But one thing I can say, that every time solid argument is presented for the consideration of that side of the House and on every occasion where he realises that they are wrong his laughter is the loudest. That is now a marked feature of the debates of this House.

As I said, Mr. Chairman, although the Prime Minister announced in advance, without seeing the Amendment, that he was voting against it, one of my Colleagues proposes to place before this Committee an Amendment which would do justice to the people who are to be affected by the exercise of these powers.

Mr. Cargill (St. Mary's, Jamaica): Mr. Chairman, in an effort to be even more constructive in this discussion than we have been already, we intend to put forward a suggested Amendment for the earnest consideration of the hon. the Prime Minister and the hon. Members opposite.

Before I do that, Mr. Chairman, I would like to say that I have been increasingly shocked, as the life of this Parliament continues, at the way fundamental rights are taken so lightly by the Members on the benches opposite. They like to be thought of, or certainly the hon. Members from Trinidad like to be thought of, as progressive, radical people championing causes, defending the oppressed. Yet the most extraordinary thing, Mr. Chairman, is that as soon as they come to power they change and they become extraordinarily reactionary in their views. I find that they seem no longer to have respect for the important and civil liberties of which they claim to be

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the champions and which, when they started out on their political lives, I believe they were genuinely championing; but when entrusted with power they seem to have no further respect for things that are important to the liberty of the individual. It is not only in that direction that the rot has set in. They seem to have a strange craving for improving their standard of living when they have done nothing at all during the whole session to improve the standard of living in this Federation. They come to this House and ask for legislation that will deprive the individuals of certain legal rights and freedom. They act as if they were agents of the most reactionary form of old-fashioned colonial Governments. It shocks me deeply. I know that power has the effect of changing people's minds and hearts but I am surprised how quickly. It has corrupted their innocence and eroded their hearts. It is an important point and that is why we are taking so long about it. That is why one after the other on this side of the House we will speak about it until other hon. Gentlemen, beside the Minister of Finance, fall asleep.

You know, Mr. Chairman, it has just occurred to me that the only time the hon. Minister of Finance looks innocent is when he is asleep. I would strongly recommend that his excellent and admirable example be followed by the Minister of Communications and Works who looks more innocent when his eyes are closed.

Mr. Chairman, with your permission, I would like to read the Amendment that we propose, and I would ask the hon. Prime Minister to stop fixing his penknife and give the matter his serious consideration. I don't know why the hon. Prime Minister

is sharpening his penknife, I don't know if it is a symbolic sharpening. I see he has now closed the blade and put it back in his pocket.

I want to come to the point, Mr. Chairman, but I want to do it slowly so that the Gentlemen can be well prepared in their minds for a little concentration and I know it might be difficult for them if taken in longer spells than five minutes at a time. After all, as my learned Colleague, the Leader of the Opposition said, we are not asking anything very much of the Government. We are simply asking that they be courageous and big enough and open-minded enough to see when they are proposing something which may be dangerous to the individual and to the individual's liberty. It doesn't seem much to ask of any Government and I cannot understand why time after time, as this House proceeds, we see the same thing going on—a completely stubborn refusal to change even one word of a piece of legislation, no matter what good reasons are put forward for the change, no matter how constructive we wish to be. The hon. Prime Minister plants his feet (I was going to say his forefeet) on the ground, lops his ears and refuses to move and it is not until we kindle a fire under him that we get any form of forward movement whatsoever.

The Amendment which I would like to read to hon. Gentlemen is as follows :

"No person acting in exercise of any powers conferred by any regulations made under this Act or by any order or rule made in pursuance of such regulations shall be liable for anything done in good faith and no proceedings shall be brought against any such person in respect of acts done in the exercise of any powers as aforesaid unless the particulars of the act or acts alleged to have

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[MR. CARGILL]

been done in bad faith are set out in such proceedings.”

What we are trying to say is this: we understand the necessity of protecting the agents of Governments, or rather I should say agents of Governor-Generals, because by this Act we have handed the whole thing over to the Governor-General. We seem to have forgotten that we are aspiring to be a self-governing Dominion, and we have simply handed the whole thing back to the Colonial Office through the person of the Governor-General.

You know, I have often had to defend, in other places, most irresponsible allegations made from time to time against the Prime Minister, when I hear him called a stooge of the Colonial Office. Expressions of that kind hurt me very much. I feel that it is very unfair that people should use such extreme expressions about him. It is a most impolite thing to do and to say, and I should be the last, at least in this hon. House, to describe him like that. But I am bound to say that the whole of this legislation certainly gives colour to allegations of that kind, for certainly it looks as if the hon. Prime Minister is existing in an age which I thought had passed away in the West Indies twenty or twenty-five years ago. His mind seems to cling on the habit that you must pass all responsibility ultimately to the Governor-General or to the Governor, or to some representative of the Colonial Office.

This is a disgraceful piece of legislation—the whole thing from top to bottom. We must deal with it bit by bit and as best we can. I would like to read again this Clause because the whole point of our Amendment is that we on this side of the

House understand that you have to protect people acting under the powers given by this Clause.

Mr. Sinanan: Even McLeod will withdraw that. He is a liberal man.

Mr. Cargill: Not even Colonial Office officials should be protected if they act in bad faith. The existing clause in this Bill protects the doer even if he acts in bad faith. The plaintiff could not even get to first base. You could have a man even more dictatorial than the Prime Minister doing what he wants with the liberties of our subjects and acting in the worst possible faith and you could not contest the matter because you could not bring action against him, because it is forbidden by law. All we are saying is that if the individual acts in good faith he has nothing to fear from any action brought against him; but if he acts in bad faith he has to fear the rule of law.

Probably hon. Members opposite did not hear my Amendment, so I shall read it again:

“No person acting in exercise of any powers conferred by any regulations made under this Act or by any order or rule made in pursuance of such regulations shall be liable for anything done in good faith and no proceedings shall be brought against any such person in respect of acts done in the exercise of any powers as aforesaid unless the particulars of the act or acts alleged to have been done in bad faith are set out in such proceedings.”

So that if a man feels that he is aggrieved under this law and that the action taken is in bad faith, he can bring an action. The Bill does not say so at the moment. The Government does not under-

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stand the position but we know the difficulty. We have a certain amateur lawyer on the other side—the Minister of Communications and Works — who always holds himself up as a legal authority with disastrous results, and who now tells us that action can be brought and we know fully well that it cannot be. Ask your legal officers. We are not saying all this for the purpose of delaying the passage of legislation or opposing for opposition's sake. We believe in the liberty of the individual. It seems to be impossible to plead with any success for individual liberties in this House. However, we will have to continue to plead for them despite our experiences.

I do not know whether any of the hon. Members on the Government benches have taken down the proposed Amendment but perhaps the hon. Prime Minister will care to read it himself.

I should mention that there seems to be a divergence of opinion between certain Members on the Government benches and the Leader of the Government, which is quite extraordinary. They come into this House and support certain measures, but as soon as they get outside of the House they condemn them. I want to see them act with a certain degree of dignity and integrity. I would ask the Prime Minister to read that Amendment and give it his earnest consideration.

Mr. W. B. Williams (St. Catherine, Jamaica): Mr. Chairman, this Emergency Powers Bill is one that has been causing Jamaica much concern in that it is the most advanced trade union Island in The West Indies, and I am fearing that the powers being given to the Governor-General as they are here might be a great dan-

ger to the Trade Union Movement in Jamaica.

Recently, in Jamaica, we saw the combined efforts of the soldiers and of the police force going out to carry out raids, and we fear that the combined Emergency Powers of the Federation are going to bring—

Mr. Rose: On a Point of Order, Mr. Chairman. Is the hon. Member referring to Clause 5 of this Bill?

The Chairman: You have to give him a chance to make a few preliminary remarks.

Mr. W. B. Williams: We are talking about all kinds of power. What we are afraid of is too much power placed in the hands of anybody. In Jamaica we have an advanced Constitution; we are enjoying a Constitution of full internal self-Government. We do things at the Cabinet level and the decisions are those of the elected people. Soon we will have here the Cabinet system where the Prime Minister will replace the Governor-General. I had hoped that the Prime Minister would not add more grievance to the people of Jamaica remembering that the people of Jamaica already believe he has piled up hot bricks on his head. So I think it is high time he started cooling them off.

Mr. Hill: Mr. Chairman, at the risk of repeating in a different way and perhaps with less emphasis, the proposition put forwarded by the speakers on this side of the House, let me begin by saying that we of the Opposition deprecate very much the *sotto voce* remarks or statements made by the Prime Minister who, in his petulance, told this hon. House that he was not in

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[**MR. HILL**]

the mood to accept any amendment whatsoever. That is a terrible thing,

Mr. Sinanan : The whole thing is a farce.

Mr. Hill : This act goes against the very foundation and every fundamental principle for which a Parliament in a democracy is founded.

As my learned Friend from St. Mary has pointed out in the Amendment, what we seek to achieve, or dare to seek, in this clause to this most obnoxious and unnecessary Bill, is to retain the freedom of the individual to seek and to obtain redress for any grievance which he may have sustained. While one understands the caution with which the Government approaches a situation or a matter like this in providing legal protection for its agent to whom repressive legislation or Acts are delegated, nevertheless, we should not hesitate to condemn the intention of this Clause, at one and the same time. We should remember that the rule of law and the principles by which we should be guided are of greater importance to the subject and the citizen on whose behalf this or any other Parliament purports to legislate.

I would like to ask the hon. the Prime Minister, through you, Sir—because it is perfectly obvious that somewhere along the line there has been a political black-out—whether he believes that the principle of protecting an agent of repressive legislation is more important than safeguarding the principles that are enshrined in the Parliamentary democratic way of life that this Federation is to be guided by. Which is more important : to protect an Administrator, to protect a Governor sent out

by the Colonial Office, to protect the agent of repression or to seek to safeguard every inch of the way the possibility of infringement of the basic rights of the individuals who after all number in this Federation three million? That is all that we have been trying to get the Prime Minister to understand. That is our pre-occupation.

We are getting accustomed in this House to the practice, if not the theory, of this Government of protecting persons representing government and the Colonial Office even at the expense of the citizens whose government this Federal Government is supposed to be. While I hate to hark back to the past, Mr. Chairman, may I ask the Prime Minister again : now that power is being transferred from the Colonial Office— from the British Government— into the hands and onto the shoulders of the elected representatives of this area, are we to understand that the change is only going to be equally bloody?

4.00 p.m.

Are we to understand that that change is going to mean an equally hard fist, that we are not going to change the system, we are merely changing the personalities with the iron and mailed fist of authority in kid gloves?

That is not what the people of The West Indies have been voting and struggling for. They have asked for transfer of powers in order to change the system, not merely to change the individuals. A rotten Colonial rule is no better and no worse than rule by elected representatives who confuse the purposes of their election and their responsibilities with their lust for displaying power, tyranny and dictatorship.

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I am no prophet. But I have prophesied a lot of things. I prophesied, for example, that the Federal Government would find themselves hemmed in between Trinidad and Jamaica with regard to this Constitution, and that the Prime Minister would be like a cat walking on hot bricks, and that has truly come to pass. Let me prophesy what is going to come to pass in regard to this matter.

The Chairman: We are dealing with Clause 5.

Mr. Hill: I am coming to that, Sir, in the prophesy. The day is going to come if this amendment is passed when the authority will be delegated to some satellite of the Colonial Office or of this Government. Then we will need two armies, especially if this happens in Trinidad or Jamaica.

I am appealing to the Prime Minister. It is not too late in the day, now that he is awake —

The Prime Minister: I have not been asleep yet.

Mr. Hill: Mentally asleep for years and actually not on the ball! Now that the Prime Minister appears to be awake it is time, I suppose — and I would suggest to him that we adjourn this House here and now, since he has now heard the sound of our voices, in order that he should give this matter the mature consideration which we believe any act or any piece of legislation deserves, particularly when it concerns the liberty of the subject to seek to obtain redress for grievances, real or imaginary. Because who is to decide whether it is imaginary or not? The Courts. Who is to decide whether it is real? The Courts. Who is to decide bad faith? Certainly not the political Government — [*Interruption*]

The more I hear the Minister of Communications the more I understand why there are no communications between the islands of this Federation. He has left “communications” and gone to Law, an area which is much more strenuous than marching to Chaguaramas.

And so, Mr. Chairman, I would throw out to the hon. Prime Minister this suggestion in good faith and in all sincerity that he should seek an adjournment and obtain mature counsels in his sequestered Ministerial palace on the second floor of the Federal House, and talk it over with his advisers. It may perhaps happen that the other Members of the Council of State, the other Ministers and colleagues of the Prime Minister might well wish to give him advice, but do not wish to do it in the face of this hon. House.

He has his choice, so let him take it. This will not be the end of this matter in this House or outside. The Prime Minister knows that there will come a time when public opinion, which still exists in this Federation will be used against him as a pointed weapon whenever it chooses.

Mr. Gomes (St. George East): **Mr. Chairman,** the hon. Prime Minister has a very rare talent for dissipating goodwill. I have had a very personal experience of this rare talent during this afternoon's proceedings, because I came here yesterday and today dominated by the feeling that the all important thing both for this House and for the Federation, at the present time, is a relaxed attitude in the Government and in the Opposition.

It seems to me that to fall into rigid attitudes at the present moment is not calculated to do much good to the Federation.

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[MR. GOMES]

It is in this setting, Sir, that I deprecate the statement made by the hon. the Prime Minister just a few minutes ago. One would expect from the Prime Minister not this prickly pride but rather the sort of pride that, because it is big, can afford concessions without persuading itself that it has suffered unduly.

Mr. Chairman, like yourself, I have the greatest regard for this House as an important parliamentary institution, which it is our duty to do everything to foster and to develop. I want to submit to the hon. the Prime Minister that when he delivers himself of statements such as he made a while ago, he is merely committing an act that is detrimental to the development of this institution as the most important parliamentary institution in the entire Federation.

I feel very strongly about the statement made by the hon. the Prime Minister, particularly for the reason that when he said it does not matter what sort of amendment is proposed, and when indeed he evinced what was tantamount to contempt for the Amendment when it was passed to him just a few minutes ago, the only conclusion that those of us who sit on this side of the table can come to is that our presence here is entirely superfluous. Indeed, the Federation has no need of a House of Representatives; the Government can proceed purely in an Executive form.

Of all the acts that I have witnessed here, this is the one to which I take the greatest objection. This is the hope of the Federation, this House of Representatives. Make no mistake about it. It is here that we will find the guarantees for the liberty and freedom of the citizen which are very precious;

and my hon. colleagues who have spoken before me have emphasized their importance, more so during this period of transition when in the process of leaving Colonialism we are thinking of establishing a political dispensation of our own.

Let us face the fact that during this crucial period dangers will present themselves, because perhaps, of some perversion of values we acquired during our sojourn in the Colonial stage, we seem not to be very anxious to preserve the basic democratic liberties when we find ourselves in possession and when we have to rule ourselves.

What is involved here at the moment — and I am not so much concerned with what is before the House as with the attitude adopted —

The Chairman : Yes, Mr. Gomes.

Mr. Gomes : What I am saying is that I am very greatly concerned with the attitude adopted by the Prime Minister. I think, Sir, I am quite in order, with your exercise of indulgence. The attitude of the Prime Minister reflects the point of view of the Government; it is obviously the attitude of the Government and it is so rigid, so implacable, and so inflexible as to make me feel — and I am sure that all my Colleagues share in this feeling — that there is nothing for us to do but to withdraw and allow this House to continue, solely and absolutely run by the Government. After all, if pride is not the exclusive virtue of the Prime Minister of this Federation, then we as Members of the Opposition here, elected for the purpose of expressing our particular points of view, also feel that our pride has been outraged by the attitude that has been adopted by the Prime Minister; and I

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think, Sir, that it leaves us with no alternative but to withdraw from the House.

The Chairman : I think it is time for the tea interval during which time good feelings may be restored.

Mr. Gomes : Thank you, Sir.

Mr. Bradshaw : Mr. Chairman, I beg to move that the Committee do now report progress and ask for leave to sit again.

Agreed to.

House resumed, progress reported and leave granted for the Committee to sit again.

4.15 p.m. Sitting suspended.

4.55 p.m. Sitting resumed.

House resolved into Committee.

Mr. Gomes : Mr. Chairman, I feel that there is very little more that I need say, except perhaps to express my very profound regret at the statement made by the hon. Prime Minister, which, may I repeat in order to give emphasis to the fact, seems to create a stultification of the Parliamentary processes of this hon. Council.

No Opposition, no reasonable Opposition could object to the strongest possible language being used by any Government in presenting legislation which it proposes to a House. That, in the ordinary course of events, is the exercise of the legitimate right of a Government, indeed one of the basic and fundamental rights of the Government — to ensure the passage of legislation through the House of Representatives. But when the symbolic head of the Government in very clear, precise and unambiguous language affirms the rather extraordinary proposition that irrespective

of the form, content or language of the Amendment proposed by the Opposition, he does not care what the Amendment is about, indeed in fact, he has become allergic to all amendments, he does not want to see them, that, so far as I am concerned, is carrying us not only to the limit but beyond the limit which any Opposition should be prepared to endure. The only alternative that I can see for this Opposition, for any Opposition that has any respect for itself, is to emulate the hypersensitive pride of the Government (for, after all, the Government has set the standard), by withdrawing and leaving the matter entirely to the Government so that they could not only rule in the Executive but even legislate in the House. Let it proceed to consider and institute legislation on its own without that indispensable adjunct of a properly constituted Parliament, Her Majesty's loyal Opposition. I regret that we have had to reach this impasse especially so early in this Sitting. I say so because there should be the very best relations between both sides of this House, having regard to the very important matters that confront the West Indies nation at this time.

I appeal to this Government to show a better spirit; indeed, I do so in the best possible spirit and with the utmost sincerity. But may I repeat that if this attitude continues, then there is no need for an Opposition in this House; and an Opposition, so confronted by any Government, has no alternative but to withdraw.

5.00 p.m.

Mr. Bryan : (Eastern Counties). **Mr. Chairman,** I am not going to make any apology for entering the Debate at this stage of the deliberations of the Committee.

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[MR. BRYAN]

It is well known in this House that I spent a rather considerable amount of time criticizing the principles of this Bill when it was first introduced. Some Members may feel that perhaps I could be considered to have said sufficient on the subject but, Mr. Chairman, any Parliamentarian even the newest, must know that the Committee stage of a Bill gives every Member an opening to come back and speak against any points on which he may be set. If a Member is skilful enough, he can make as long a speech as he wishes, as long a speech as the one he made on the occasion of the presentation of the Bill, without infringing the Standing Orders and catching the attention of the Speaker the wrong way.

I do not wish Members to take this as any threat, but I make the preface in order to say that I feel as disturbed in the Committee stage as when I stood here and spoke against the principle of this Bill when first introduced. In a way Mr. Speaker, I am delighted at what is taking place here today, delighted in that it gives us an opportunity to see whether for the months when the Parliament was in recess, the time spent in all these working Committees, gave the Government an opportunity to realise that Government, in order to endure, must pay some respect to parliamentary practice and preserve its rights and virtues.

It is only when a Government allows Parliament to bend it that we are able at all to say that we have good Government; because good Government through Parliament is based on the assurance of a reliable Opposition; if you try to make the Parliamentary Opposition a negative quantity, then indeed, there is no purpose in our having a Parliament. Without a Parlia-

ment, you have only Government by edict or dictatorship.

What are we talking about? We are talking about Clause 5. I am going to remind Members that I have been in one Legislature or another for the past seventeen years in this country; all the way up from being a Member of a Municipal Council to membership of the Federal House of Representatives. I am going to remind them that while the Chairman is invariably inclined to allow latitude to a Member who feels strongly, I am not going to transgress at all.

Clause 5, in point of fact, is typical of the main characteristic of this Bill in that it allows almost complete recapitulation of all the criticisms which have been made against this measure as a whole. What are we arguing? What is the Opposition saying? The Opposition, in effect, is saying — and I stop here Mr. Chairman, if I may, to say how very heartened I feel at the disposition which, in the main, the Opposition has revealed here today, in the sense that when the Bill was first proposed the Leader of the Opposition said that he and Members on this side of the House intended to oppose this measure in every facet until we saw the end of the day or until we brought the Government to see reason on the point.

Now I have tried to understand the contention, and this is how I see it. The Opposition is arguing that Clause 5, as worded — underline “as worded” — takes away completely the freedom of the citizen to seek redress against an alleged wrong. We believe that the citizen has been wronged. We have already said that we consider the whole principle of the Bill to be patently wrong for a Government con-

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stituted as is the Federal Government. We are saying that this Clause is perhaps the most offensive Clause in the whole Bill, because after you have been wronged it takes away from you completely your freedom to appeal against the alleged wrong.

Is there a proposition that could be put more simply to the people who have to make laws for the country? Let us quote the Clause; let us take the layman's interpretation, because when lawyers and professionals make laws these should not be put in a way that climbs right over the heads of the people of the country. The people in Sangre Grande and Toco must be able to understand them. What does this law mean, Mr. Chairman? I quote Clause 5. There is a very misleading Marginal Note here — "Exercise of powers in good faith not actionable." This is what the Clause says —

"No proceedings shall be brought against any person for anything done in good faith in the exercise of any powers conferred by any regulation made under this Act or by any order or rule made in pursuance of any such regulation."

This covers every conceivable sin that anyone could commit under this Act — It covers everything, but the Clause says —

" . . . anything done in good faith . . . "

As a layman, Mr. Chairman, I ask myself : when you say that no action shall be brought against anyone for any action "done in good faith", who is to say whether the action was "done in good faith" or in bad faith? Does the person who committed the act decide that "I did this in good faith"? The citizen tells you that a wrong was inflicted on him and that the act was done in bad faith. What we are saying here on this side of the House is that you ought to liberalise the wording. That is all. You

want the Bill to be passed and your majority will do it, but liberalise the thing for the comfort of the citizen and let him know that if he believes that the Governor-General or anybody to whom the authority was deputed, acts in bad faith against him, he can go to the Courts and say that this was done in bad faith and seek redress.

I depend entirely on the interpretation of the Leader of the Opposition of what these words mean. I do not wish anybody to think that I venture to argue the legal tangle in it. It is sufficient for me to have heard in this House today the interpretation put upon these words as they stand in Clause 5 and the bad effect they would have on the citizen, and that this view is supported by Privy Council's decision in another case.

The citizen believes that the person acted against him in bad faith. Who is to say that the offender did it in good faith? Certainly not the person who took the action against him? The Clause starts by saying that no action shall lie if this was "done in good faith" assuming as it were that everything will always be done in good faith! Why not let the Courts decide? Why not put it in such a way that the man could bring his action and the Courts would tell him whether he has any grounds, and then the man allowed to proceed to the ultimate in the judicial opportunities that are available. That is what is involved here.

All that the Opposition is asking is that the Clause be re-worded to allow such an opportunity and not to close the doors against what is a common opportunity for all citizens in a free country. In considering this, is the Federal Government afraid of

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[MR. BRYAN]

erring on the side of generosity to the citizen? The citizen of a new country which is already bragging about being able to set good examples and to bring about new conditions and good precepts which could be accepted by the rest of mankind? Are you afraid of being called liberal-minded, or is it that the Government in its attitude is intent on being called or being recognised as a new iron-fisted master? That is the only reputation that the Federal Government can bring on itself if it continues to be intransigent in its attitude. It seems to me to be a simple and honest request that the Opposition makes. I say this without criticism; I exhort the Federal Government and the powers that be to listen and hearken to that phase of the matter — If you want to be called a new iron-fisted master then proceed with the policy as couched in Clause 5.

Against Clause 5, Mr. Chairman, we can say all that has been said against the principle behind the Bill. We can say that Clause No. 5, as at present worded, will be a definite danger to the liberty and progress of the country and its people. We can say that it is an antiquated provision that goes back and tramples on the rights of the citizens as a whole. You are taking away what were always the rights of the people.

Isn't it strange, Mr. Chairman, that this Federation which was to rescue us from what we called Imperialistic oppression should now be going back to something which in its design seems even worse than the malady we were brought here to cure and to remedy?

Mr. Gomes: Hear, hear!

Mr. Bryan: What is Clause 5? Clause 5 is the usual Imperialistic type of escape

hatch used by the Imperialists long ago. They sent their Governors here, and the philosophy was, "Look here, go down there with a strong hand against those natives. I give you these powers by which you can put aside the elected people; these are your tools from the arsenal of Imperialism; go down there and if the natives misbehave, you have your laws under which you will make so and so regulations."

But what was the philosophy behind this facility of the escape hatch — this escape hatch as resurrected here by Clause 5? It said — "Look here, you know that you may be doing something you think is wrong, but go ahead and do it! In any case, you have got an escape hatch and nobody can appeal against your decision; there it is, you can get out through the back door at any time if you find yourself in hot waters."

That is the essence of Clause 5 and that is the design throughout the whole Bill. I refer to it, Mr. Chairman, only to show that Clause 5 keeps to the basic pattern of the Imperialistic attitude, and I can support that by quoting from a speech I made in this House on the 9th December at column 1083 of Hansard. I was referring to regulations as intended in the Bill, and I quoted from the Bill which says:

"... or any order or rule made in pursuance of such regulations shall have effect notwithstanding anything inconsistent therewith contained in any enactment, and any provision of any enactment which may be inconsistent . . ."

At that time I said, and I quote from Hansard:

"This is very high-handed. It would be unnecessary, if you were to pass this Bill as it is. You say here, that you make a regulation, rule or order, and where it is inconsistent with any enactment rule or order in force.

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the order under this Bill shall remain in force. It is arbitrary, high-handed, unreasonable and unacceptable."

And I say, Mr. Chairman, that Clause 5 follows that pattern religiously and very unnecessarily. We are here only to criticize the measure, because we can criticize the measure without necessarily criticizing Government, and we can criticize Government without necessarily criticizing individual Members of the Government. But we are apprehensive of this sort of legislation and we appeal to the consciences of Members of the Government in what we consider to be a very serious matter concerning the citizens of the country in respect of this new law.

One would be entitled to ask: Is the Government of the new West Indies piling up weapons from the same old Imperialist arsenal and getting prepared to handle the natives in their time? We can ask that question very fairly under Clause 5.

I ask, Mr. Chairman, that the Government seriously consider not closing the door on reason. That is what Parliament is here for, to have elected representatives appeal to the reason of the people who have been elected to govern them, and we think that when that reason becomes apparent the Government should be gracious enough to hearken to it.

The Bill, as it is, is a legislative monstrosity. I criticized it as that and I still think it is a very big monster. And let me project a finger into the future for the benefit of the Member from Barbados who just laughs this off. One of these days before very long, if the history of these countries progresses in the way it has done before, some occasion will present itself when the Member for Barbados will have to answer

to what we consider here is very iniquitous action.

Hon. Member (Government) We will have to use it!

Mr. Bryan: You mean use the Bill; use the powers of the Bill? How quickly we pick out these Imperialists from the benches of the Government!

Mr. Chairman, the whole Bill is provocative; Clause 5, especially so. And what is being asked by the Opposition is that Clause 5 be reconsidered and reworded, in some way that it would not be so offensive, and that it would not look like a big metal door, securely closed against the aspirations of the people. I appeal to the Government with all reasonableness and sincerity, not to bring the Opposition to the position where it would — in the words of the Member for St. George East — have to say that this Bill is so repugnant, that we may even have to use more drastic measures than simply speaking strongly and animatedly against this particular Clause. It is in that sense that I appeal to the Government, not to allow itself in any way to be branded as just a new type of oppressor; not to allow itself to be branded as just a new type of iron-fisted government, but to come down to the philosophy of a Government of the people that will listen to the people when they bring reasonable arguments through their elected representatives in this House.

The Prime Minister: Mr. Chairman, I wonder if we are dealing here with something of such a nature as to warrant the language that has been used by some hon. Members opposite; because they have used such alarming words in this Debate. You would think that the freedom of everybody in The West Indies was at stake, just be-

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[THE PRIME MINISTER]

cause we are using, what for more than two hundred years, has been the normal language in Bills of this sort. I don't care what the Trinidad Government says.

Mr. Sinanan : Rubbish !

The Prime Minister : This is language that has been copied by Dominions —

Mr. Hill : Let us think for ourselves.

The Prime Minister : — because when they were colonies, these laws were passed in the Territories and retained.

Mr. Sinanan : That is why it is wrong.

The Prime Minister : I do not mind the heckling, Sir; I am accustomed to it.

Mr. Chairman, you can find these words in the laws of any Territory of The West Indies.

Mr. Sinanan : That does not make it right.

The Prime Minister : You can find it in any of the Territories of The West Indies, including Trinidad. I have not as yet made a check as to whether the three Trinidadians who have spoken on the Opposition side, were in the Trinidad Legislative Council at the time when such legislation was passed.

Mr. Hill : Colonial legislation.

The Prime Minister : I prefer that three or four of you heckle me at the same time. I have not checked to find out whether the three Trinidad Members who spoke for the Opposition were in the Trinidad Legislature when that same emergency powers legislation was passed.

Mr. Chairman, it is absolutely necessary and essential to have emergency legislation.

It may be for an act of God; it may be for civil disturbances, riots, earthquakes, or some other disaster. And, Mr. Chairman, this Act brings them all together. You will find some old Act dealing with hurricanes in any one of these Islands, but this Act brings into a single law all these things.

When hon. Members keep talking about the power vested in the Governor-General, and about old Colonialism — I don't want to boast —

Mr. Sinanan : Don't boast about your Colonialism.

The Prime Minister : — but what Territory has fought and succeeded faster and earlier than the Territory from which I come, as regards fighting Colonialism?

Mr. Hill : Jamaica is far ahead; you begged for yours !

The Prime Minister : We told Colonial Office —

Mr. Hill : We were in detention camp for ours.

The Chairman : Will the Committee please allow the Prime Minister to speak?

The Prime Minister : Hon. Members claim this and claim that —

Mr. Gomes : Mr. Chairman, I wonder if the hon. Prime Minister would answer a question, simply for clarification? Do I understand the Prime Minister to be making the point, Sir, that there is every justification for introducing this legislation because it has existed for at least two hundred years in many Colonial territories, including these islands of The West Indies? And may I ask him, Sir, whether he is seriously suggesting to this House that the circumstances are anomalous in the case of

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its application by a Territorial Government as distinct from its application by a Federal Government of The West Indies? And may I ask him to produce the relevant authority?

Mr. Chairman : May I point out before the Prime Minister resumes, that the Clause this Committee is discussing is Clause 5, and that the question has nothing whatever to do with that Clause.

Mr. Gomes : The hon. Prime Minister set the standard, Sir, and I simply asked him to answer a question.

The Prime Minister : Set what standard? Hon. Members on the other side of the House, over and over again, keep shouting about Colonialism. And incidentally, if any other Member is going to ask any question in that form, I am not going to give way. If you give me time I will answer all the points made by the Members opposite.

Mr. Chairman, I am saying that Clause 5 is a Clause that will be found in these actual words in other legislation in many of the other Colonies. At least the earliest I can think of is 1760.

Mr. Joseph : Well, it is time to get rid of it !

The Prime Minister : Generations of legal draughtsmen and clever lawyers of the Opposition in the British House of Commons, and in the Colonies, have sat in their Legislatures and made their comments, just as hon. Members are doing today, and for two hundred odd years, we will either find "brought", or the word "taken", or the word "instituted".

In Trinidad, for instance —

Mr. Joseph : It is too old ; get rid of it !

The Prime Minister : Those who make the accusation should come with the ammunition to say that it is not right.

Now, Mr. Chairman, I think that it is dishonesty to come here in this House and speak about Colonialism when Section 60 of the Federal Constitution says that the Governor-General must act on the advice of his Ministers.

Dr. Duhaney : We want a new Constitution.

Mr. Sinanan : I rise on a Point of Order, Mr. Chairman.

The Prime Minister : I am not giving way.

Mr. Chairman : I think the Point of Order should be taken by me. I don't think that Section 60 has anything to do with Clause 5.

The Prime Minister : I am merely replying to the arguments used by the Members of the Opposition.

Mr. Sinanan : You have got to bow to the ruling of the Chairman. You are misleading the House and everybody else.

The Prime Minister : Since this House was prorogued last year, something seems to have happened to the Leader of the Opposition.

5.30 p.m.

Mr. Chairman : May I ask hon. Members please to behave themselves and to preserve the atmosphere which this House has had from the beginning. If, of course, this continues I only have one course to pursue and that is to adjourn the House.

Mr. Sinanan : Name the Prime Minister for misleading the House !

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Mr. Richards : (Minister without Portfolio): Contain yourself.

Mr. Sinanan : Contain what self ?

The Prime Minister : I didn't think when I came into the House yesterday that there would be — I know there is bound to be some comic element, but not all these comedians.

Emergency legislation, I repeat, is absolutely necessary whether it be an act of God or civil disturbance, and that is all this Act is saying.

I have spoken about Jamaica.

The Jamaica Social Welfare Commission Law, 1958, Section 10 (1) — same as Section 5.

The Jamaica School of Agricultural Law, 1958, Section 11 (1) — same as Section 5.

The Pilotage Law of 1959.

The Cocoa Industry Board Law of 1957, section 21 (1).

In Barbados: Emergency Powers (Amendment) Act of 1955 inserted Section 5 in the Principal Act. The Principal Act was not sufficiently clear and opportunity was taken at the same time to bring everything together. That is why I made reference to the hurricanes.

Limitation (Public Authorities) Act, 1955, section 3 (1).

Trinidad has the same. Public Authorities Protection Ordinance. Section 2 (1). You will find that in some of these Acts —

Mr. Joseph : What does it say ?

The Prime Minister : The hon. Member wants to be reminded of what he said

in the Legislative Council. I will check it up sometime. The exact words of the Trinidad Ordinance are that: "no action shall be brought".

Mr. Joseph : They are wrong.

The Prime Minister : Some of the others have "no action shall be brought", some "no action shall be taken", some "no action shall be instituted". I thought that I would have to make a defence of the word "brought" because the whole tenor of the criticisms this afternoon was "change the word brought". My defence is going to be that what often appears to a lay-man as a plain interpretation of the Queen's English is not a plain interpretation to a lawyer. To the average lay-man "brought" means "it can be lodged". That is utterly wrong. It is not true. No Clerk of a Court, no Registrar — I think it was the hon. Member for —

Mr. Hill : Honolulu.

The Prime Minister : Over and over again people go to lawyers and say, "This land has been claimed from sea to sea" — that is the expression used in Barbados; I don't know what is used in other Territories.

Mr. W. B. Williams : In Jamaica you can't even see the sea.

The Prime Minister : And the interpretation that is used if you give land to a person and say nothing more — well, if you say historical, he has a freehold which he can will away. But that is on a par with reading the word "brought" as though it meant "cannot be lodged". The hon. Member from Jamaica, to whom I referred a moment ago, was the first to put the Government's case perfectly. Nobody but the Court should decide. And how in the name

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of Heaven can you pass an Act, a Section in an Act, which points to the fact that it is for the Court to say "good faith" ?

You may meet the Clerk coming up the steps and tell him you lodged something and he may tell you that you are not allowed.

Mr. Hill : That is bad draughting.

The Prime Minister : It is remarkable, I repeat, that for over 200 years draughtsmen and lawyers and Courts after Courts didn't have the enlightenment and wisdom that has been displayed this afternoon by the Opposition — that none of them saw it before. If I were draughting a law like this I wouldn't even look at a precedent. It would be as well known to me as the alphabet.

I repeat, for the benefit of the Leader of the Opposition, the Trinidad Ordinance specifically uses the word "brought". There are two elementary things — so elementary that I don't believe either of the Solicitors on the other side consider them.

Mr. Cargill : Be careful.

The Prime Minister : I will be careful because the last thing I would like to do is to descend to the level of the Member who just told me to be careful. In the midst of pretending to praise me he uses abusive language.

Mr. Cargill : I never pretended to praise you.

The Prime Minister : I am not going to follow him. He said earlier that he had to defend me, and he was defending me in very abusive language this afternoon. You can't help it. I am going to try and improve on the Almighty's handiwork. He made him like that.

There are two most elementary Clauses in the judicial interpretation. As long as it is possible to interpret a thing, to make sense of a section in a Clause, the Court must interpret it and give way to it on the grounds that the Legislature does nothing in vain. That is to say the majority in a Legislature does nothing in vain! As a blind man sees the words "good faith" he knows that a Judge has to say whether it is good faith or bad faith. If you use the word "brought" the Court is not going to uphold anything unless it is brought.

Mr. Sinanan : You are wrong and you know it.

The Prime Minister : The fact is that all the lay voices I have heard, including those of solicitors, make me feel and know that I am right. It would have been the simplest thing in the world when we were first talking about it to say, "change it". Why should I support the Opposition in making silly — I hope they don't object to the word "silly"; it is used purely in an objective sense — Amendments which seem to be a reflection on the draftsman, especially when I know that the draftsman has made no mistake.

I have already said that there is no necessity for defending the use of the word "brought" because the Member who brought in his Second Amendment has himself used the word "brought". And what is he doing in that Amendment? It makes no difference whatever to the principle of Section 5. It only says, "unless you set out the facts".

Now, I have always understood that except in procedural matters where a Court lays down in what form an action can be brought, any illiterate man can write out

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what he thinks to be a case and hand it in. So you have a plaintiff and a defendant and the plaintiff can say —

Mr. Cargill : Really, really !

The Prime Minister : Except a Court lays down how things are to be brought. Look at the number of mistakes that are made ; look at the number of judicial objections taken — *in limine* —

Mr. Sinanan : “Liming” means a different thing in Trinidad !

The Prime Minister : The case is lodged with a practising solicitor. I am saying that a Legislature does nothing in vain. Therefore in order to stop a man from lodging a case you will have to set it out in your procedure. Let him go and pay his four shillings —

Mr. Sinanan : You see, you are talking about the police courts. We are talking about the Supreme Court. This is not assault and battery you know.

The Prime Minister : No person can go to Court with a libel action unless money is paid in at the time when you make the defence, and so on. You cannot ask the Court to exercise its discretion in your favour if you are suing your wife for divorce and you yourself have committed adultery. But those are specific —

Mr. Sinanan : You see. On a Point of Order. My Friend read about adultery in that book. [*Laughter*]—

Mr. Chairman : That is not a Point of Order.

The Prime Minister : Matters like those are laid down as the *sine qua non* of the thing being accepted — the bit of paper

that you have to carry to the Clerk or Registrar of the Supreme Court. But look at the alternative if that is the obvious interpretation of law. The Registrar would have to take that man and examine him and cross-examine him and be satisfied that it was good faith before he could put the case before the Court. As the words “good faith” appear his duty is to take the complaint and deal with it in the same way that he would deal with any other complaint and let the Court fix the date for hearing and the Court will determine whether it is good faith or not.

To suggest that because you say unless this is written out you have done nothing, shows that some hon. Members opposite feel that “brought” means that you will send a messenger and he will bring along these things. You will find that the word “instituted” is used in some of these Ordinances ; but if you think well you will see that you cannot even “institute”, which, to the layman —

Mr. Sinanan : Not even Mottley will understand that.

Hon. Member : You mean you cannot even allege it.

The Prime Minister : Mr. Chairman, as you see I have endeavoured to reply —

Mr. Joseph : What is wrong with the word “allow” ?

The Prime Minister : I am not going to interfere with what I consider to be first class draftsmanship.

Mr. Sinanan : Who is the draftsman ?

The Prime Minister : He is here in Trinidad. We sat in Council-of-State and considered and questioned this Bill with

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one of the most distinguished lawyers, who is our Attorney-General. This Bill was drafted by him, and incidentally, he is a West Indian — a Jamaican.

Mr. Sinanan : He was on leave then.

The Prime Minister : I merely repeat in brief what I have been saying. Lawyer or no lawyer, I am not going to subscribe to the view that when the Council-of-State sends down a Bill to this House and Members get up and talk all sorts of things about it, we should listen to the Opposition, and if we don't then this Government is no Government.

Mr. W. B. Williams : We are no rubber-stamps. Don't bring it here. Keep it to yourself.

The Chairman : Order, order.

The Prime Minister : Your Honour has already appealed to Members to try to behave themselves. You see how difficult it is for them to do so. For the last time I say this is good draftsmanship and there is no necessity to change it. All the Amendment is saying is that you must write down what is not a matter of principle but indeed a matter of procedure. The Court will have to say that. The hon. Member keeps referring to this case in which he insists that the Privy Council decided that not only must the Governor-General be satisfied but that the man to whom he delegated his authority must also be satisfied. In that case, the Governor of Nyasaland gave his powers to a provincial body and that provincial body decided that an emergency did exist and proceeded to draft legislation. The Privy Council held that the Governor was not himself satisfied that the emergency existed. The Governor, incidentally, is an ex-Governor of St. Kitt's.

You see, Mr. Chairman, they passed all the other parts of the Bill; they had no objections from Section (1) to (4) so they must attack Section 5.

Hon. Member : Election speech.

The Prime Minister : You accuse me of making an election speech? I vote in my constituency and I don't have to come here to make any election speech because my votes are in my constituency.

Hon. Member : Not again.

The Prime Minister : If you are wrong is one thing, but if you are right you should be more than stubborn. They accuse me of being stubborn but one should not allow people to persuade him to change something which one is convinced needs no change.

Mr. Chairman, if hon. Members think there are points which they made but which have not been replied to, I should be glad to reply to them provided those points are couched in proper language.

Mr. Sinanan : Mr. Chairmau, the Prime Minister obviously has not appreciated the Amendment which has been filed by my hon. Friend. He has used this very specious form of reasoning that because the word "brought" is mentioned in Clause 5 and because the word "brought" is mentioned in this Amendment, and we oppose Clause 5, therefore there is no substance in the Amendment. But the Prime Minister does not realise and refuses to appreciate that the word "brought" with this formula of words creates an injustice. If you say, "No proceedings shall be brought against any person" it creates an

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injustice in that it prevents the would-be plaintiff from filing his action.

I don't know why but the Prime Minister is talking about four shillings and the police Court while we are talking about the Supreme Court. We are talking about the Supreme Court where they wear wigs and gowns. We are talking about action in the Supreme Court where there are Judges. And, he refuses to understand the Amendment.

The Amendment says ;

"No person acting in exercise of any powers conferred by any regulations made under this Act or by any order or rule made in pursuance of such regulations shall be liable for anything done in good faith and no proceedings shall be brought against any such person in respect of acts done in the exercise of any powers as aforesaid unless the particulars of the act or acts alleged to have been done in bad faith are set out in such proceedings."

Hon. Member : Can he speak again, Sir ?

Mr. Sinanan : Does the hon. Member think that I had no reason for asking someone to present that Amendment ? I am entitled to speak again, on the Amendment. When I handed my colleague the Amendment, it was not by accident. I am entitled to speak on the Amendment and I will speak on the Amendment. And in any case I can speak again. Ask the Chairman he knows that as well as I do. We are going to talk about all the nonsense, I withdraw the word "nonsense", Sir, we are going to refer to all the authorities that the Prime Minister mentioned and did not produce.

Because Colonialism is three hundred years old, therefore, a provision that has existed for three hundred years must con-

tinue to exist. It means too that since the Draft is good and it is three hundred years old, therefore enslaving a people is also good.

The Amendment says :

"No person acting in exercise of any powers conferred by any regulations made under this Act or by any order or rule made in pursuance of such regulations shall be liable for anything done in good faith and no proceedings shall be brought against any such person in respect of acts done in the exercise of any powers as aforesaid unless the particulars of the act or acts alleged to have been done in bad faith are set out in such proceedings."

Hon. Member : That is mischief.

Mr. Sinanan : We are trying to remove the mischief of the word "brought" in the context of Clause 5 and using the word "brought" in the context of the Amendment to obviate that mischief. This Amendment is saying that you must allege your acts of bad faith and that is to me a requirement that this Clause does not provide and which creates a hardship and injustice to any person who wants to ventilate his grievance in a Court of law.

Mr. Chairman, the Prime Minister began to read some pieces of legislation that he said came from Jamaica and we have not yet heard the end of them. He mentioned the use of the word institute and the use of the word brought, but in what context and in what formula of words ? He knows in interpreting any legislation you have to take everything as a whole. How can he say so ? Produce the authorities. What he says does not apply, Sir.

I am now entitled to refer to this case ; the Prime Minister referred to it and brought it in the argument. I would like to

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point out to the Prime Minister that this is a Report of 1960 and obviously when this matter was discussed in November of 1959 we did not, and he could not, have had this Report available. This is a Report of February 1960 and, I am sure that the Prime Minister, the good lawyer we know him to be and the good parliamentarian that we hoped he was, would agree to recommit these Clauses. He refuses and he has already indicated to me, that he would not. I met the Prime Minister outside and asked him about the recommittal. He knew that I asked him in all seriousness and he refused. Having refused, and having referred to the case in his argument, I am entitled now to go into the case of Mungoni in detail because this is going to affect the whole future life, not only of the Federation, but of three and one half million people. I for one — and I am sure I speak for every other Member on this side of the House — view with suspicion any precedent that comes from the Federation of Rhodesia and Nyasaland and this kind of legislation which has been the subject of litigation right up to the Privy Council.

6.00 p.m.

We are going to examine it scrupulously. It is unfortunate that this case has arisen with Mr. Mungoni. Mr. Chairman, I am going to crave your indulgence to read certain parts of this case in order to repudiate the arguments which were advanced by my hon. Friend the Prime Minister, and I read —

“In September, 1956, the Acting Governor of Northern Rhodesia made a proclamation in which he proclaimed that the provisions of the Orders in Council dealing with emergencies should have effect in the Western Province of Northern Rhodesia. At the same

time he issued the Emergency Powers Regulations, 1956, of which Regulation 16 (1) provided that whenever the Governor was satisfied —”

I ask hon. Members to take note of this language. It is identical with the language of this Bill before us —

“— whenever the Governor was satisfied that for the purpose of maintaining public order it was necessary to exercise control over any person he might make a detention order against such person directing that such person be detained —”

I ask my hon. Friend from Tobago to bear that in mind because he is passing this Bill now, and I quote :

“— to exercise control over any person he might make a detention order against such person directing that such person be detained. By Reg. 47 the Governor was authorized to delegate all or any of the powers conferred on him by the regulations. The Governor also issued an instrument delegating many of his powers, including the powers conferred by Reg. 16 (1), to the Provincial Commissioner of the Western Province. The appellant was living in the Western Province and on Sept. 16, 1956, the Provincial Commissioner made a detention order against him under Reg. 16, in which it was stated that the Provincial Commissioner was satisfied that it was necessary to exercise control over the appellant. The appellant was taken to a detention camp, but was discharged by order of the courts on Nov. 29, 1956. A restriction order was then made against him by the Governor prohibiting him from being in the Western Province except under written permit, which order continued until it was revoked in October, 1959. The appellant claimed damages for false imprisonment for the period Sept. 16 to Nov. 29, 1956, on the grounds that the detention order of Sept. 16, 1956, was invalid as the Governor could not validly delegate the duty, imposed on him by Reg. 16 (1), of deciding whether he was satisfied that the detention order was necessary before it was made.”

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It was held that —

“—the authority to delegate ‘powers’ that was conferred by Reg. 47 (1) enabled the Governor validly to delegate not only his power under Reg. 16 (1) to make detention orders but also the performance of the condition necessary for the exercise of the power, *viz.*, the fulfilment of the duty to decide whether he was satisfied of the necessity for the order being made.”

Mr. Chairman, I would like to read—

Mr. Rose : What has that got to do with Clause 5 ?

Mr. Sinanan : I would like to read what was said by Lord Denning. He said —

“The appellant, Edward Liso Mungoni, is an African resident in Northern Rhodesia. He claims damages for wrongful arrest and detention. The High Court of Northern Rhodesia found in his favour and awarded him £25 damages. That decision was reversed by the Federal Supreme Court of Rhodesia and Nyasaland, who held that he had not been wrongfully arrested or detained. Edward Liso Mungoni now appeals to Her Majesty in Council asking not only that the judgment in his favour should be restored but also that the damages should be increased, because the sum of £25 was, he says, inadequate.

“On Sept. 11, 1956, the Acting Governor of Northern Rhodesia made a proclamation in which he said he was satisfied that a public emergency existed and he proclaimed that the provisions of the Orders in Council should have effect in the West Province of Northern Rhodesia. On the very same day, he issued emergency regulations which gave the authorities wide powers, and, in particular, gave the Governor power to make detention orders. He also issued an instrument delegating many of his powers to the Provincial Commissioner of the Western Province. At the same time when the emergency was declared, the appellant was living —”

there are a lot of exotic names here Sir, but we will say in a township which was in the Western Province of Northern Rhodesia. Rather than engage in some form of malapropism like the Prime Minister I will not try to pronounce it. The passage continues —

“He was an official of the African National Congress. At 6.00 a.m. on Sept. 16, 1956, police officers came to his house and arrested him. He was arrested for breaking the Emergency Regulations by attending a meeting which had been prohibited. He was not tried on this charge because at 7.30 p.m. that day the Provincial Commissioner for the Western Province made a detention order against him. It was in these words :

‘NORTHERN RHODESIA
THE EMERGENCY POWERS
REGULATIONS, 1956.’”

A detention order was made, it recited —

“WHEREAS it is provided by Reg. 16 of the Emergency Powers Regulations, 1956, that whenever the Governor is satisfied that for the purpose of maintaining public order it is necessary to exercise control over any person, he may make an order against such person directing that such person be detained; —”

It went on —

“Now, therefore, I, GLYN SMALLWOOD JONES . . . Provincial Commissioner —”

Mr. Chairman, I am going to ask you to be patient with me.

Mr. Chairman : I am not going to be patient because I do not think it is relevant for you to read the whole judgment. You have made the point, a perfectly valid point, in reply to what the Prime Minister said, that is to say that when a power is delegated to an official it was held that the duties were also delegated. I do not think that you should inflict a long judgment on this Committee.

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Mr. Sinanan : Don't you think it is important for these men to know what may happen to them.

Mr. Chairman : They can read it.

Mr. Sinanan : My hon. Friend the Minister of Communications called out to me.

Mr. Chairman : He is not a lawyer.

Mr. Sinanan : Mr. Chairman, I have sufficient experience to know that when the Chairman says that I have made a valid point I should proceed to another point because once the Chairman or the Speaker says that the point is valid it is enough for me and for this House, so I am now going to reply to what the Minister of Communications addressed to me just a moment ago about its relevance to Clause 5. Obviously, that Gentleman should be somewhere else. He should not be in a Parliament. It is hard to think that after all these hours of argument — even the Prime Minister, appreciates the point — this hon. Gentleman comes to ask what is the relevance of Clause 5, the relevance of this whole Bill the relevance of that Clause which says that any regulation may be signed by or on behalf of the Governor-General or such authority or person. The relevance is that people like us can suffer under these regulations because who knows what will happen in the future? Who knows what form the history of this Federation will take or what will take place when the next fifteen years have passed away? Who knows what is going to happen as a result of the legislation we are passing now and the laws that are going to influence the history of this Federation.

If this could happen in this century and you could have a decision in 1960 affecting

a man who belonged to a political party which he held as sacred, and if you could have this sort of delegated authority and deprive him of his liberty — let my Friend sit here with that complacent smile and ask what is the relevance of this whole piece of legislation which is so obnoxious and which will be to the everlasting discredit of the Prime Minister. I resent the fact that the Prime Minister of this Federation should force this piece of legislation down the throats of Members of this House. That is the relevance of it. The relevance is that we do not want any man or woman in this unique Federation of The West Indies to have to go unnecessarily to the Privy Council in order to vindicate his rights as a citizen of the Commonwealth. The relevance is that The West Indian Federation is more advanced than the Federation of Rhodesia and Nyasaland, more advanced than some other Federation, including even some of the older ones, because we have set a pattern here for something for which the whole world is striving and even though we have not got the money we are qualified to be leaders in world thought at the present time.

That is the relevance — that The West Indies cannot afford to have this type of legislation on its Statute Book, because the very presence in the Statute Book will be an indictment against our political thought and impulse as people. Mr. Chairman, I say to that Gentleman, who is posing as a progressive territorially but who is being a most sedentary and reactionary Minister [Opposition Members: Hear, hear!] — he marches and says, "We burn the Constitution, we are spiritually free"; yet he sits here with that smug complacency and allows this to be foisted on The West Indian people.

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The Prime Minister said to me, when we began the debate, that something has happened to me. That is true. If the Prime Minister will go back to the Hansard Debates from the beginning, he will see where this Opposition, through me, laid down a blue-print for the future conduct of the Opposition in this House. We said that we realised that the task was difficult; we said that we knew it was an unique Federation and we told this House that we were going to be a responsible Opposition, assisting the Government where necessary and doing everything so that we could go forward in the march to nationhood. We have been doing that, but I am beginning to realise, much to my horror that the Prime Minister and a few others are rocking the Federal ship with unnecessary comments and remarks, with an attitude that does no good to this House or to the Government, with a sort of obstreperous stubbornness, disregarding completely this Opposition and not realising that every Member of this House, regardless of the seat he occupies, regardless of the side of the House he occupies, has to answer to the people and that in this Territory, the people of Trinidad and Tobago have asked the question of me over and over again, "Why are we in this Federation?" This is being asked with great intensity; "Why is Trinidad in this Federation?" For economic benefit? Has it got anything to gain in this Federation, except one of the most important things and that is international prestige? How can we have people coming here and only thinking in terms of "drains" and old age pensions? That is a sort of parochial mentality that injures this Federation's form and frustrates our aspirations.

Mr. Chairman, something has happened to me. I will do nothing to hurt my hon.

and learned Friend the Prime Minister; I will do nothing to discredit him in this House, but I am going to call on all my powers to ginger him up; I am going to call on all my powers to see that every time he adopts an attitude that is intractable that we will get a White Paper.

The White Paper of yesterday was given because the Prime Minister realised that we are not going to put up with this any longer. I say to him again that he must realise that the arguments advanced on this piece of legislation are worthless and futile; they are not arguments that will convince anybody that we are providing the right type of legislation. I challenge him, even at this stage, to commit this Bill to a Select Committee and let that Select Committee get the Legal Advisers to go into it and we will see a Bill of another shape and another form.

Let hon. Members remember, let them never forget, that the first draft Bill on these Emergency Powers is not the same before us today. The same stubbornness existed, and the same refusal to accept our criticism was displayed, yet after the adjournment of the House, all the amendments were brought in, Clauses were deleted, and we have another Bill. So that alone was an acceptance of the fact that the arguments advanced from this side of the House were, not only valid, but so necessary and so vital, that the Government amended and changed the Bill where necessary.

Again I ask, which Parliament realising the right of the minority opinion — because the quintessence of Parliament is the fact that the Speaker has to respect the minority opinion, which means that the Govern-

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ment has to respect the minority opinion also — will dare to rush through this Bill. This Bill, Mr. Chairman, was opposed bitterly by the Opposition. It was postponed for more than six months. All of us know that if a Motion to postpone this Bill for three or six months had been accepted in this House, in so far as Parliament was concerned, this Bill would have been dead. That is the parliamentary way of killing a Bill. That motion was not passed, but this Bill has been pending before this House for more than six months; yet this Government moves straight into Committee stage after such a long lapse, and they try to force it through. No Government which recognises parliamentary tradition will try to do that to a House which resisted so stubbornly such a worthless piece of legislation. This Government, in accordance with parliamentary conscience, should say that it has considered that the Bill was not killed by that parliamentary move, but because the fight has been so dogged it has decided to reconsider every Clause of the Bill.

A Government is entitled to have an Emergency Powers Bill but not in this way. And, Mr. Chairman, the last remaining Clause of this Bill has been most reprehensible. If in 20 years time, some examination is made of this piece of legislation, it must never be said by anybody that the Opposition was responsible for thwarting the legitimate aspirations of the Federation, rather they must see that we wanted to have a Federal institution different from all the others where all the citizens had the liberty of the subject as their sacred motto.

The Minister of Communications and Works (Mr. Rose): Mr. Chairman, the charge which has been made by the Oppo-

sition, if it is well-founded, is a very serious charge indeed. Because the contention is that by seeking to pass Clause 5 of this Bill, the Government is endeavouring to deny the citizens of this new Nation of a fundamental human right. That, as I understand it, is the charge of the Opposition. Indeed we have examined this charge, because no Government worthy of its name, worthy of the responsibility which it must have to the people of this country, ought to take such a charge lightly.

The interpretation which the Opposition has sought to put on this Clause is that it precludes any citizen who may feel that he, or she, is aggrieved by action taken under this Bill to institute an action against the authorities. We on the Government Benches do not believe that this charge is right, simply because the Clause, to us, is quite clear in its intention and in its meaning.

May I read the particular Clause, Sir. It says:

“No proceedings shall be brought against any person —”

and this I think is worthy of emphasis — for anything done in good faith in the exercise of any powers conferred by any regulation made under this Act or by any order or rule made in pursuance of any such regulation.”

It appears to us on this side of the House, Mr. Chairman, that it would be necessary for someone, somebody, some authority, to prove that the act was done in good faith, or was not done in good faith. There can only be one authority — that of the Court. If someone alleges that he is aggrieved by any action done under this Act, then he is at liberty to bring an action, but it would be necessary for him to allege that the act was not done in good faith.

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Mr. Sinanan : That is the lawyer for the Government.

Mr. Hill : When last did you argue such a case ?

Mr. Joseph : Is that the draughtsman the Prime Minister referred to ?

Mr. Rose : I sat down and I listened to you.

Mr. Joseph : And you laughed and giggled.

Mr. Rose : Anyhow, I would not proceed to indulge in the irrelevancies which you did.

We on this side have been advised that this particular Clause is not new, and while it may be possible to improve the Clause, the fact is that we are satisfied with it in its present form and find that it is clear and unambiguous, and meets the purposes for which it is designed.

Mr. Speaker, in the course of what the hon. Leader of the Opposition alleged to be in support of the Amendment, he saw fit to make a personal attack against me. He said that I was parading as a progressive — masquerading as a progressive ; that I took part in my Party's march for freedom —

Mr. Sinanan : Freedom ! And you come here to assist in passing this Bill ?

Mr. Rose : — and that I come here and as a Minister of this Government was party to reactionary legislation.

Mr. Sinanan : Is it not a dilemma ?

Mr. Rose : It is not a dilemma. As long as the Party to which I belong remains a member of the West Indian Federal Labour Party —

Mr. Joseph : Your party has you here as a spy.

Mr. Rose : — it is my duty to be loyal to the West Indian Federal Labour Party, and to the Government of which I am a Member.

Mr. Gomes : If one is sufficiently morally careless, one can justify almost any act in this world.

Mr. Rose : I am aware that the hon. Member for St. George East is a pastmaster at that art. He has been a proponent of the philosophy that the end justifies the means in his politics.

Mr. Bradshaw : Mr. Chairman, I beg to move that the Committee report progress, and ask leave to sit again.

Question put and agreed.

House resumed. Progress reported and leave granted for the Committee to sit again.

6.30 p.m.: Sitting suspended.

8.05 p.m. Sitting resumed.

Mr. Bradshaw : Mr. Speaker, I would like to propose that the Committee be now resumed.

Agreed to.

House resolved into Committee.

Mr. Rose : Mr. Chairman, when the adjournment was taken I was endeavouring to indicate that the charge which has been made against this Government by the Members of the Opposition is without foundation. We have witnessed this afternoon the Opposition resorting to some subterfuges in procedure of the Committee in order to reopen matters which had already been dealt with by this Committee.

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As I understand it, Mr. Chairman, the procedure is that we deal with these Bills Clause by Clause. We did that, and if the Members of the Opposition were not alive to their interests or their responsibilities, that is their hard luck. If, because they have failed to discharge that responsibility, they have resorted to subterfuges by reopening matters which have already been dealt with by this Committee then the duty rests on this Government to show them up for what they are.

We have witnessed filibustering; we have listened to repetitious arguments. We have seen the Opposition come to a standstill; and then we have heard arguments. Indeed, I for one wonder what peculiar type of mind could produce a defence of Dr. Williams in this House and then associate itself with facetious attacks on him as well. *[Interruption]*—You spoke of the Premier of Trinidad and Tobago, the hon. Leader of the Opposition did.

Mr. Sinanan : In my speech ?

Mr. Rose : What we have been witnessing is an attempt by Members of the Opposition, by their constant reference to the Trinidad Members on this side of the House and to myself, to endeavour to divide the W.I.F.L.P.

Hon. Member (Government Benches) : That is true.

Mr. Rose : I say this : We on this side of the House are aware of this attempt and we see it for what it is worth. I can tell them that their attempt will fail.

Mr. Joseph : Don't carry any more news to Williams.

Mr. Rose : I have already, in the course of the life of this House, had occa-

sion to indicate to the Members opposite what is the attitude of the Trinidad Members to this Government. Indeed, Mr. Chairman, I am wondering whether instead of rushing to the defence of the Premier of Trinidad and Tobago, whether it will not profit the hon. Leader of the Opposition to attempt to defend the policies that his new political boss has expounded elsewhere.

Mr. Gomes : That political boss is causing a lot of flutters.

Mr. Rose : We are asked to examine an amendment tabled by the Opposition. They contend that by accepting this amendment the Government would be giving evidence of their earnest to safeguard fundamental human rights. I say this, Mr. Chairman, we on the Government Benches yield nothing to any other Member of the Opposition in our determination to safeguard the basic human rights in this nation.

Hon. Members (Government Benches) : Hear, hear.

Mr. Rose : There will be no greater advocate than the Members of the Government and if the hon. Members of the Opposition intend to come here and to make cheap politics, we are willing to accept that challenge.

Mr. Hill : And make cheaper politics.

Mr. Rose : It is impossible for us to descend as the Members of the Opposition have. You come here and want to give, you must be able to take too.

Mr. Joseph : You couldn't possibly descend.

Mr. Rose : We in this Government have our Legal Advisers. We have full

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confidence in those Officers who advise us. We see no reason to change the advice or to go abroad for the advice which we have been given. [*Interruption*—Is this a question of interpretation or a question of policy ?

It appears to me that the burden of the contention of Members of the Opposition has been the question of interpretation.

Mr. Gomes : Cockroach got no right in fowl business.

Mr. Rose : I think that applies to the hon. Member opposite. If we are to examine his political record, I think we would find that particular adage, to which he has referred, is apt for him.

If we were to examine his political record, I think we would find that the particular adage to which he has referred is wholly appropriate.

Mr. Chairman, may I summarize our attitude by saying that as far as we on this side of the House are concerned, this Clause does not prevent an individual who is aggrieved under this Act from instituting proceedings. We are satisfied with the legal advice which we have had and we see no reason to change that Clause, and indeed we find that the amendment which has been suggested by the Opposition is without any merit and we intend to reject it.

Mr. Shah (St. Patrick, Trinidad) : **Mr. Chairman,** as I listened to the hon. Prime Minister giving some of the reasons why this Clause ought not to be amended as suggested by the Opposition, I was utterly amazed to hear, coming from the lips of such a learned and eminent lawyer, the lamest of all lame excuses, the weakest of all weak excuses, and that was that one

of the reasons why he would not like to interfere with this Clause is because it would hurt the pride of the Legal Draughtsmen and he would not like to hurt their pride. Because they drafted something and sent it to this hon. House, this House must accept it as presented by them otherwise it would hurt their feelings. But, **Mr. Chairman,** if this is good reasoning, then the Government might just as well stop bringing these bills to the House—

Hon. Member (Government Benches) : We refuse to stop bringing them. This is a democracy.

Mr. Sinanan : You think we are political infants ?

Mr. Shah : If this is good reasoning, **Mr. Chairman,** then the sooner the Government stop bringing these bills to this House the better. They might as well accept the draft from the legal draughtsmen and find some means of making it law without bringing it here. After all, what purpose do we serve here, if one of the considerations we must have is that if we change a clause or amend a clause as presented by these legal draughtsmen, it will hurt their pride ? What form of conceit are we going to bow to in this House, if we are going to accept that as a reason for not amending a bill ?

The Prime Minister : I never said that. I said I would not insult the draughtsmen by asking them to change something which I know to be perfectly well done.

Mr. Shah : The hon. Prime Minister also said that, **Mr. Chairman,** but I am sure that we all heard him say that he would not like to accept this amendment and change this Clause because it would

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offend his legal draughtsmen. But, I believe, with the greatest respect to the legal draughtsmen, that it is bad enough when one has regard to the composition of the Government, that we hear it said all over the place, that this is a case of the tail wagging the dog instead of the dog wagging the tail; it is bad enough to hear that, but it is worse to hear now that the legal draughtsmen will now wag that tail.

Mr. Bradshaw : Whom are you calling "dog" ?

Mr. Shah : It is only by analogy.

Now, Mr. Chairman, I think we must be very serious on this matter. After all the legal draughtsmen must realise, and the hon. Prime Minister and his Government must realise, that it is a very serious duty which we in this hon. House have to perform; not only a duty which we owe to our own consciences, but a duty which we owe to this new Nation whose destiny we have in our hands.

It must be realised that when a bill comes before this House that we must debate every Clause of that Bill. If necessary, not only accept amendments, but it is our right and privilege to recast every Clause of that bill.

Mr. Sinanan : Yes, and where necessary to burn it also.

Mr. Shah : But, Mr. Chairman, I do not think that the hon. Prime Minister could have been really serious when he advanced that as one of his reasons why we should not accept this amendment, or amend this Bill.

Mr. Chairman, the Prime Minister said, that the wording of this particular Clause that "No proceedings shall be brought",

can be found even in a Section of the Trinidad Law, and I believe in a Section of The Statute of Frauds in Barbados—which the other hon. Member for Barbados was good enough to point out to me. Well, that is nothing new to any lawyer. But, Mr. Chairman, there again the argument is very specious. It shows you how backward and primitive this Government is. It shows you that they are content to copy and to imitate whatever was done one hundred years ago and present it today in these progressive times, and say that because it was good one hundred years ago, it is good today, and we must accept it, and if we do not accept it then the Government will use their majority vote and force it down our throats.

But, Mr. Chairman, while it is true that I know the Section of the Trinidad Law to which the hon. Prime Minister refers, as far as I know that Section was there over one hundred years ago. And what is in the Statute of Frauds of Barbados must be there for a very much longer time than that. But because it is there before, does that necessarily mean that it must also be brought here ? I have never heard a more fallacious argument in my life.

What we have to consider, Mr. Chairman, is whether this Section is practical, whether it is just and whether it is fair in the setting in which we now wish to enact this new Clause. And it is the submission of this side of the House that it certainly is not.

I have heard it said by Members on the other side that there are authorities which they could produce to show that same section with similar wording which has already been considered in some Court of Law and that the interpretation of the Section is in accordance with the views of

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the Government. I shall be happy, very happy indeed, to see such authority. In fact, we on this side of the House shall be very happy indeed to see it. It is no use telling us that there are authorities. We should like to see them. I would have been happy if the Minister of Communications & Works could have presented such authority and communicated it to this House but he was not so communicative.

Mr. Sinanan : He is the only natural lawyer on the Government side.

Mr. Shah : Certainly, Mr. Chairman, I do think that when one examines the wording of this Clause "no proceedings shall be brought" one will find that it actually presupposes the very ground on which the action can be brought. Bringing the action is one thing but maintaining it is another thing. The action can be brought, but whether that action is maintainable in a Court of Law is a different thing.

The Prime Minister : That is for the Court to decide.

Mr. Shah : I agree with the learned Prime Minister. This time he seems to be thinking of the Supreme Court. It is when we compare this distinction that we see the importance of this Clause and we see the interpretation of it in its true context.

Our contention is that no person should be prevented from bringing an action. Every person should be entitled to bring an action. It is all very well to bring an action in the Courts of the West Indies but whether the action is maintainable is another question. It is to maintain this right of bringing action and to maintain this distinction between bringing an action and maintaining an action that this

amendment has been brought to this hon. House.

Upon examining that amendment, anyone ought to be able to see, who wishes to see, because we all have heard it said "There is none so blind as he that has eyes and will not see" and, I am afraid, Mr. Chairman that there seems to be quite a number of such persons on the other side of the House to whom we on this side unfortunately have to speak from time to time. Nonetheless, if for no other reason, but to go down on record as having expressed our views and done our best to bring the Members of Government to their senses—

Mr. Hill : What! They have not got any!

Mr. Shah : If for no other reason than for posterity to know who are the ones who have perpetrated this Act upon them; if for no other reason but that we feel it is our duty to stand here and express our views, and we feel, Mr. Chairman, that if this Amendment were to be examined impartially — and I am not using the critical words of the hon. Prime Minister that an illiterate man can understand it or a blind man, because neither of these two will be able to read this and understand it — but I am saying that anybody with a modicum of commonsense and a slight degree of impartiality, and with a conscientious sense of duty to the people whose destinies we have in our hands will be bound to find that the purpose of this Amendment is merely to make sure that two things happen. First of all —

Mr. Ricketts : If I had a case, I wouldn't give it to you.

Mr. Shah : You couldn't afford to retain me.

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Mr. Rose : He couldn't afford to lose it by giving it to you.

Mr. Shah : I wouldn't take it because I do not accept any brief to support an unjust cause! You can't afford to retain me until that Committee reports on your salaries; but then you would have to take into consideration that I would accept your unjust briefs.

Mr. Chairman, my professional oath prevents me accepting unjust briefs.

8.30 p.m.

As I was saying. Upon an examination of this Amendment two things will be found; first of all by this Amendment we make sure that there is no doubt about the fact that every man will be entitled to bring an action to have any grievance he has aired in a Court of Law. We give him that right. We give it to him unequivocally. We give it to him without any doubt whatsoever. Then the Amendment goes on to the second thing and that is that when such an action is brought, if the court finds that the act which has been complained against has been done in good faith then it is for the judges of the court to decide whether or not the act complained against has been in good faith. The Court will therefore say whether the action is maintainable.

Mr. Hill : But they plan to abolish the courts! — [*Laughter*] —

Mr. Shah : So, Mr. Chairman, that is the first thing that this Amendment seeks to do. The second thing which this Amendment seeks to do is this: it seeks to meet the very situation that the hon. the Prime Minister has in effect visualised in the course of his speech. It is not fair to the

people for us to sit here and pass legislation, the language of which is so ambiguous, and it seems purposefully ambiguous, that it will entail a great deal of expense.

Mr. Joseph : That is to give lawyers work, boy! — [*Laughter*] —

Mr. Shah : Once again my sense of duty to the people whom I represent compels me to forget my own selfish ends. I must remember the duty which I have to perform here and this duty is not to provide for myself but to make sure that any matter concerning the people of this country is dealt with wholly in the interest and welfare of the people.

The hon. the Prime Minister says that when anything happens a citizen can easily go to a Court of Law and a Judge will decide whether he could bring an action or not. What we on this side say is why make this Section so ambiguous. In the case of an emergency — not like the one in Tobago —

Mr. Joseph : The Princess is there now.

Mr. Shah : — but in the case of a real emergency hundreds and possibly thousands of West Indians will be affected, and the type of people who will be affected will be the man in the street. The people who will be affected will be the poor people, mostly the working class, the labouring class of people. I know that the Government has not got the interest of those people at heart.

Mr. Ricketts : We have.

Mr. Shah : Mr. Chairman, what this Government should remember is this, that

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in the majority of cases the type of people affected will be those who will not be able to afford the large amount of money which it will necessitate to bring a matter to the High Courts of this country. Perhaps they do not know that it costs a lot of money to take a matter to the Federal Court and the people will not be able to afford it.

What is the object of this Government in insisting upon passing a Section, the wording of which is so ambiguous, the wording of which is so doubtful? If this Government really wishes to do its duty to the people conscientiously why are they baulking at accepting an amendment which seeks to do the very thing which they say this Section does, only that the Amendment does it in clearer language and without ambiguity? Why are they baulking at that? Why are they refusing to accept an Amendment, the effect of which is to achieve the same purpose which they say they have in mind, only that it does so in the very clearest possible terms? Why do they not want to do it? One of the objects, to my mind, of this Amendment is to protect the people against all that this Government wishes to perpetrate in this country.

Mr. Chairman, when I spoke on this Bill in November last year you will remember that I spoke at some length and I have no desire to repeat all those arguments because I am sure that many of the Members on the other side are more anxious to go home and rest, perhaps, and they would be glad if I make my speech shorter —

Hon. Members (Government Benches): Hear, hear!

Mr. Shah : They are asking me to do so, Mr. Chairman. They are more interested

in going home and having a rest or seeing about their families rather than remaining here and performing the duties which they have been sent here to do. They are not interested in it —

Mr. Bousquet : That is the D.L.P. in Trinidad —

Mr. Shah : The day is going to come in The West Indies when people like you —

Mr. Chairman *rose*.

Mr. Shah : I beg your pardon, Mr. Chairman. I was only going to make a prediction here but I will not do it.

Mr. Chairman, on that occasion when I was speaking on this Bill I expressed my view as to what I thought was the Rule of Law as against the Rule of the Police. I believe that it has had no effect at all on those sitting on that side of the House. It is quite immaterial to them. They seem not to appreciate the meaning of and the difference between these two conditions. But what this Section seeks to do is to deny the Rule of Law to the people of The West Indies and to provide for conditions in which they will be deprived of their civil rights because, by virtue of this Section, this Government is seeking to protect all Government officials — from the Governor-General down — against any proceedings in the Law Courts of these Territories.

I heard the hon. Minister of Communications and Works say a little while ago that there are no greater advocates of the rights of the people than this Government. I would like to know what they mean by advocates of the rights of the people.

Mr. Bradshaw : Advocates and protectors!

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Mr. Shah : Again you will pardon me if I refer to the Debate of November last. Both the hon. Leader of the Opposition and I took great pains and went to great lengths to point out to this hon. House the iniquities which could be perpetrated upon a people if this Bill were passed and if the powers which are being provided for in this Bill were ever exercised. We brought reports, we took the trouble to bring reports of the House of Commons and we read from those reports at great length to show to this Government, when powers were exercised under the Emergency Powers Act in England, the great, great injustices and iniquities which were perpetrated on people in that country. We took time off to bring reports here of numerous cases in which innocent people were charged under the purported exercise of the powers under such a Bill. Numerous innocent people were charged — the working people of the country were charged and fined and sent to jail in an effort by the Government to break-up a legitimate strike in England under this power. What was done in England to break-up a strike there could be done in this country under this power to break-up strikes of the workers in these Territories. And then you say that you are the greatest advocates!

Mr. Rocheford (Barbados) : Have you read the Bill?

Mr. Shah : The difference between the Member and myself is that while we have both read the Bill —

Mr. Chairman : Both of you are irrelevant. Will you come to Clause 5?

Mr. Shah : Yes, I have come to Clause 5. The point that I was trying to make is this, to show why we feel that Clause 5

should not be accepted in this form, and one of the reasons which we are advancing from this side is that it is a most important reason and I merely referred to the remarks made by the Minister of Communications and Works because it brings me directly to the point. When the Minister said that they are the greatest advocates of the people we wondered what kind of advocates they can be when they are passing a Bill under which provision is made to give special powers to a Government official to detain people, to take possession and control of their property —

Mr. Chairman : Will the hon. Member for St. Patrick come to Clause 5, please. You have gone over and over this thing and you are not going over any more.

Mr. Shah : I agree with you, Mr. Chairman.

Mr. Chairman : Come to Clause 5 now. You are repeating arguments which you repeated from the beginning on the principle of the Bill. I ask you now to stick to Clause 5. Read it and see what it says and talk about that.

Mr. Shah : I referred to these other Clauses to show —

Mr. Chairman : No, Sir. No. Stick to Clause 5.

Mr. Shah : I am saying that Clause 5 which seeks to prohibit the bringing of an action should not be accepted because it is not right to prohibit the bringing of an action when under the very Bill you are giving rights to Government officials to do these things. This in our view is wrong. That is why I was referring to these things because Clause 5 says that no action shall be brought —

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Mr. Bradshaw : For what ?

Mr. Shah : I am sorry you haven't read it yet.

Mr. Sinanan : For what a former Governor of St. Kitts did in Rhodesia!

Mr. Shah : Where anything is done in good faith. Our argument is that we feel that this Section, with this wording, is likely to create very serious hardships if any man is prevented from instituting proceedings, when in the same Bill provisions are made by which any Government official can, by proclamation or order, do the things which he is empowered to do by this Bill, and that is to take people's property, to arrest and do all these other things which we feel are quite wrong. We therefore feel, Mr. Chairman, that the Amendment —

Mr. Chairman : Would you like, Mr. Shah, to read the whole Bill again?

Mr. Sinanan : If Mr. Chairman says to read it, you have to read it.

Mr. Chairman : Would you like, Mr. Shah, to read the whole Bill again ?

Mr. Shah : What I am saying is — [*Laughter*] — if I thought it was necessary, I would do it.

I appeal to this House to reconsider the Amendment as proposed, as against the substantive provision. I ask this House to accept the Amendment proposed to this Clause of this Bill.

Question put — That the Amendment proposed by the Member for St. Mary, Jamaica —

"No person acting in exercise of any powers conferred by any regulations made under this Act or by any order or rule made in pursuance of such regulations shall be liable

for anything done in good faith and no proceedings shall be brought against any such person in respect of acts done in the exercise of any powers as aforesaid unless the particulars of the act or acts alleged to have been done in bad faith are set out in such proceedings."

stand part of the Bill.

House divided : Ayes 18, Noes 21, as follows :—

| AYES | NOES |
|----------------------|------------------------|
| A. S. Sinanan | Sir G. H. Adams |
| M. Cargill | Dr. C. G. LaCorbiniere |
| K. G. Hill | R. L. Bradshaw |
| L. J. Adams | F. B. Ricketts |
| A. Gomes | W. Andrew Rose |
| Archdeacon L. Lennon | Mrs. P. B. S. Allfrey |
| C. W. Swabey | V. B. Vaughan |
| Dr. F. R. Duhaney | N. H. Richards |
| W. B. Williams | D. P. Pierre |
| S. Mathura | H. F. G. Rocheford |
| E. W. Wakeland | D. S. Lloyd |
| C. T. Affick | D. H. L. Ward |
| M. H. Shah | H. F. Cooke |
| L. U. Densham | R. M. Cato |
| S. B. Stone | A. N. R. Robinson |
| R. A. Joseph | J. C. L. Wall |
| M. A. Hector | B. T. Carrott |
| V. T. Bryan | E. O. LeBlanc |
| | J. M. D. Bousquet |
| | R. E. Brown |
| | A. U. Belinfanti |

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21

Amendment negatived.

Question put — That the proposal "to delete all the words in Clause 5" be accepted.

Amendment negatived.

Clause 5 ordered to stand part of the Bill.

Clause 6 agreed to and ordered to stand part of the Bill.

Mr. Chairman : I have received an Amendment from the hon. Member for St. Patrick which I have overruled on the ground that it falls within Section 51 (3) (f) of the Standing Orders as being frivolous,

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Mr. Joseph : It was rightly interpreted. That is what it was intended to be.

Clause 1 — Short title and application — agreed to and ordered to stand part of the Bill.

House resumed, and Bill reported.

Motion made and question proposed — That the Bill be now read a Third time — [The Prime Minister]

Mr. Sinanan : Mr. Speaker, I would like to propose that this Bill be read a Third Time three months from this date.

Hon. Member : You can't do that now.

Mr. Sinanan : I am entitled to do it on the Third Reading.

Mr. Speaker, I wish to draw Members' attention to Objects and Reasons of the Bill.

The Prime Minister : That has nothing to do with it.

Mr. Sinanan : The Objects and Reasons have some connection with the Bill. I say those Objects and Reasons are misleading. The statement reads:—

"The Emergency Powers Bill seeks to make provision for conferring on the Federal Government certain limited powers exercisable during periods of emergency and for authorising the use of The West Indies Regiment for emergency purposes at the request of a Territorial Government."

We say, that it does not confer the powers on the Federal Government at all.

The Prime Minister : That is not part of the Bill. It is only there for Members' benefit.

Mr. Sinanan : I am entitled to raise every argument on this printed paper that the Prime Minister has flung before us.

And, what do the Objects and Reasons say? That :

"The Emergency Powers Bill seeks to make provision for conferring on the Federal Government certain limited powers"

a most misleading statement

" . . . exercisable during periods of emergency and for authorising the use of The West Indies Regiment for emergency purposes at the request of a Territorial Government. The Bill provides for declarations of the existence of a state of emergency in the Federation or any part of the Federation, for the assumption by the Government of special powers"

another misleading statement

" . . . to make regulations during periods of emergency and for the summoning of the Federal Legislature"

Mr. Speaker, I am proposing the Amendment that this Bill be read a Third Time three months hence.

Hon. Member : That can't be done.

Mr. Sinanan : Am I to understand that they want me to amend it to read six months? I could move that it be read a Third Time six months from this day.

Mr. Speaker, if the contention of hon. Members opposite is that this Bill is to confer powers on the Federal Government, we are entitled to say that this is incorrect. This Bill, standing as it is, confers power on the Representative of the Colonial Office and thus that power is in the Colonial Office, taking in one swoop all that we have fought for.

We are asking that this Bill be postponed for three months, and if my Friend the Deputy Prime Minister wants, it can be six months, because this is the date given by the Prime Minister for the coming into being of Cabinet Legislation. When

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the Cabinet meets after the promulgation of the Legislation, it is my learned Friend, the Prime Minister, who will be presiding over the Cabinet, not the Governor-General.

I say that it appears anomalous constitutionally that you will remove that Gentleman from presiding over the Federal Cabinet and still vest these responsibilities in him. Cabinet responsibility means removing some of the responsibility from the Governor-General and putting it on the Elected Members who comprise the Cabinet. We will prefer to see the exercise of Emergency Powers by the Elected Members of this House.

The Prime Minister : Give it to the Opposition?

Mr. Sinanan : I wouldn't want it because my sentiments might influence me and I would find it hard to use them against certain Members opposite, and in the execution of Emergency Powers there should be no sentiment.

As the conflagration in Trinidad has ceased and there is no question of the imminence of hurricane, pestilence, volcano or otherwise in the near future —

9.00 p.m.

The Minister of Labour and Social Affairs (Mrs. Allfrey) : Who knows ?

Mr. Sinanan : Does the lady Member wish to behave like Cassandra? She asks, "who knows"?

We are saying that there is no emergency existing now and we do not think there is likely to be any emergency — although I remember one gentleman said that in three months' time there might be no Federation.

Is that what is operating in the minds of the hon. Gentlemen opposite? If that is what they have in mind, let me know.

Why not postpone this Bill for three months, postpone the Third Reading for three months and let the Prime Minister preside over the Cabinet. Let the Governor-General take his rightful place under the proposed new Constitutional Instrument and let the Emergency Powers be vested in a Minister of the Government? What is so unreasonable about that? What is so unreasonable about such a request?

I would suggest that the House adopt this Amendment to postpone the Third Reading of the Bill for six months, unless, of course, my hon. Friend prefers six months. If he does not have any strong feelings about a six months' period I would leave it at three months, Sir.

Mr. Shah : Mr. Speaker, I desire to —

Mr. Rocheford : Mr. Speaker, I beg to move that the question be now put.

Mr. Shah : I desire to second the Amendment by the hon. the Leader of the Opposition.

Mr. Gomes : I rise to —

Mr. Speaker : I don't think you can speak. I should like to tell the hon. Member, Mr. Rocheford, that his Motion is premature because the Question has not been proposed from the Chair and could not be put until it has been seconded.

The question is that the word "now" in the Motion be deleted and the words "three months" be substituted therefor.

Mr. Shah : Mr. Speaker, I desire to second the Amendment as moved by the Leader of the Opposition.

Tuesday, 17th May, 1960

Mr. Rocheford : I beg to move that the question be now put.

Mr. Bousquet : I second that.

Mr. Speaker : I don't think any useful purpose will be served in prolonging this Debate. I think everything has been said on both sides that can be said. I think the closure Motion should be put now. The Motion is, "That the question be now put".

House divided: Ayes 21, Noes 18, as follows:—

| AYES | NOES |
|-----------------------|-------------------------|
| Sir G. H. Adams | A. S. Sinanan |
| Dr. C. G. D. | M. Cargill |
| LaCorbiniere | K. G. Hill |
| R. L. Bradshaw | L. J. Adams |
| F. B. Ricketts | A. Gomes |
| W. Andrew Rose | Archdeacon L. A. Lennon |
| Mrs. P. B. S. Allfrey | C. W. Swabey |
| V. B. Vaughan | Dr. F. R. Duhaney |
| N. H. Richards | W. B. Williams |
| D. P. Pierre | S. Mathura |
| H. F. G. Rocheford | E. W. Wakeland |
| D. S. Lloyd | C. T. Afflick |
| D. H. L. Ward | M. H. Shah |
| H. F. Cooke | L. U. Densham |
| R. M. Cato | S. B. Stone |
| A. N. R. Robinson | R. A. Joseph |
| J. C. L. Wall | M. A. Hector |
| B. T. Carrott | V. T. Bryan |
| E. O. LeBlanc | |
| J. M. D. Bousquet | |
| R. E. Brown | |
| A. U. Belinfanti | |

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Motion carried.

Mr. Speaker : The question is, "That the Bill be now read a Third Time."

House divided: Ayes 21, Noes 18, as follows:—

| AYES | NOES |
|-----------------------|-------------------------|
| Sir G. H. Adams | A. S. Sinanan |
| Dr. C. G. D. | M. Cargill |
| LaCorbiniere | K. G. Hill |
| R. L. Bradshaw | L. J. Adams |
| F. B. Ricketts | A. Gomes |
| W. Andrew Rose | Archdeacon L. A. Lennon |
| Mrs. P. B. S. Allfrey | C. W. Swabey |
| V. B. Vaughan | Dr. F. R. Duhaney |
| N. H. Richards | W. B. Williams |
| D. P. Pierre | S. Mathura |
| H. F. G. Rocheford | |

| | |
|-------------------|----------------|
| D. S. Lloyd | E. W. Wakeland |
| D. H. L. Ward | C. T. Afflick |
| H. F. Cooke | M. H. Shah |
| R. M. Cato | L. U. Densham |
| A. N. R. Robinson | S. B. Stone |
| J. C. L. Wall | R. A. Joseph |
| B. T. Carrott | M. A. Hector |
| E. O. LeBlanc | V. T. Bryan |
| J. M. D. Bousquet | |
| R. E. Brown | |
| A. U. Belinfanti | |

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Members of the Opposition walked out in protest.

Bill accordingly read a Third Time and passed.

REPORT OF INTER-GOVERNMENTAL CONFERENCE

The Prime Minister : Mr. Speaker, I beg to move —

BE IT RESOLVED that this House takes note of the Report of the Inter-Governmental Conference on the Review of the Federal Constitution which was laid on the Table of the House on 30th November, 1959.

I do not propose for more reasons than one, which are not in any way connected with that gesture of the impotence of the Opposition — I do not propose that we should have a debate on this matter. I suggest to the Members of this House that it would be far better to wait until the Inter-Governmental Conference reconvenes and have a general debate on anything that they put up and not debate this Report which merely suggests sending the work to Committees. If the House agrees with me there is nothing more to be said.

Question put and agreed to.

ADJOURNMENT

Resolved, That this House do now adjourn until Wednesday, 18th May, 1960, at 2.30 p.m. — [Mr. Bradshaw].

Adjourned accordingly at 9.12 p.m.